

**WEST VIRGINIA LEGISLATURE**

**2019 FIRST EXTRAORDINARY SESSION**

**Engrossed**

**Senate Bill 1039**

BY SENATORS CARMICHAEL (MR. PRESIDENT), RUCKER,  
SWOPE, TARR, TRUMP, BLAIR, BOSO, AZINGER, SMITH,  
AND BOLEY

[Introduced June 1, 2019]

1 A BILL to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as  
2 amended; to amend said code by adding thereto a new section, designated §11-21-25; to  
3 amend and reenact §15-1B-24 of said code; to amend said code by adding thereto a new  
4 section, designated §18-1-5; to amend said code by adding thereto a new section,  
5 designated §18-2E-12; to amend and reenact §18-2I-4 of said code; to amend and reenact  
6 §18-5-16, §18-5-16a, §18-5-18a, §18-5-18b, §18-5-45, and §18-5-46 of said code; to  
7 amend said code by adding thereto a new section, designated §18-5-45a; to amend and  
8 reenact §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, and §18-5E-6 of said code;  
9 to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-  
10 5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-  
11 5G-11, §18-5G-12, and §18-5G-13; to amend and reenact §18-7A-3 of said code as  
12 contained in Chapter 89, Acts of the Legislature, Regular Session, 2019; to amend and  
13 reenact §18-7B-2 of said code as contained in Chapter 89, Acts of the Legislature, Regular  
14 Session, 2019; to amend and reenact §18-8-4 of said code; to amend and reenact §18-  
15 9A-2 of said code as contained in Chapter 133, Acts of the Legislature, Regular Session,  
16 2019; to amend and reenact §18-9A-8 and §18-9A-9 of said code; to amend said code by  
17 adding thereto a new section, designated §18-9A-19; to amend said code by adding  
18 thereto a new section, designated §18-9B-22; to amend and reenact §18-20-5 of said  
19 code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, and  
20 §18A-4-10 of said code; to amend and reenact §18A-5-2 of said code; to amend and  
21 reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend  
22 and reenact §18C-4A-1, §18C-4A-2, and §18C-4A-3 of said code; and to amend and  
23 reenact §29-12-5a of said code, all relating to establishing the Student Success Act;  
24 allowing public charter schools to participate in the Public Employees Insurance Agency  
25 insurance program; creating personal income tax credits for educational expenses  
26 incurred by certain school employees for the purchase of supplementary educational

materials or professional development costs; requiring Governor to expand Mountaineer Challenge Academy at its existing location and to a new location subject to agreement required under federal law; requiring the State Board of Education to implement the Mountain State Digital Literacy Project as a pilot project; providing that professional development for classroom teachers should be individualized; requiring all teachers to receive professional development on addressing social, emotional, and behavioral needs of students; requiring state board to establish the Principals Academy; requiring county boards to establish attendance zones; replacing existing provisions pertaining to student transfers with requirement for county boards to establish an open enrollment policy; requiring appeal process whereby a parent or guardian can appeal the refusal of a county board to accept the transfer of the student; requiring the county to which a student is transferred include the student in its net enrollment in certain instances; providing that certain transfer provisions do not supersede eligibility requirements for participation in extracurricular activities established by the Secondary School Activities Commission; requiring the West Virginia Department of Education to survey districts to determine where overcrowding is impeding student achievement; increasing percentage of work time school counselors are required to spend in a direct counseling relationship with pupils; replacing the required number of instructional minutes per day with a requirement for at least an average of five hours per day throughout the instructional day; allowing public notice of meetings to discuss school calendar to be accomplished by publishing prominently on the county board of education's website; prohibiting certain extracurricular activity participation in certain instances of a work stoppage or strike; providing that the teacher's recommendation is a primary consideration in determining student promotion; removing requirement that an Innovation in Education school have a focus on certain specified areas; removing certain provisions required in an Innovation in Education application and plan; providing county boards instead of the state board the authority to

53 designate schools as Innovation in Education schools; allowing appeals to the State Board  
54 of Education certain Innovation in Education-related determinations made by a county  
55 board; exempting public charter schools from all statutes and administrative regulations  
56 applicable to the state board, a county board, or a school, with exceptions; providing that  
57 no elected official can profit from a charter school, with exception; setting forth public  
58 charter school requirements and authority; requiring a public charter school be  
59 administered by a governing board; allowing a public charter school to enroll any student  
60 in the state; requiring randomized and transparent lottery if capacity at a public charter  
61 school is insufficient; creating and allowing certain enrollment preferences at a public  
62 charter school; requiring a public charter school to submit a student recruitment and  
63 retention plan; requiring an applicant to submit an application to an authorizer in order to  
64 establish a new public charter school or to convert an existing noncharter public school to  
65 a public charter school; setting forth minimum requirements for application for a public  
66 charter school; allowing state board, subject to funding, to offer an incentive grant for a  
67 public charter school; setting forth duties of the authorizer of a public charter school;  
68 establishing process for authorizer's approval or denial of public charter school  
69 application; limiting liability of certain persons and entities relating to the operation of a  
70 public charter school; requiring each public charter school to remit to its authorizer an  
71 oversight fee; requiring a charter contract between the governing board and the authorizer;  
72 setting forth requirements for the charter contract; making the authorizer responsible for  
73 collecting and reporting to the state board all state-required assessment and achievement  
74 data for the public charter school; setting forth requirements pertaining to renewal,  
75 nonrenewal, and revoking a charter contract; requiring state board rule establishing the  
76 process for renewing or not renewing a charter contract; requiring an authorizer to develop  
77 a public charter school closure protocol or protocol for transitioning a charter school to  
78 noncharter public school status; allowing a charter applicant or governing board to appeal

certain authorizer decisions; setting forth prohibitions for a public charter school; requiring or allowing state board rules pertaining to public charter school funding, clarifying certain requirements, addressing unforeseen circumstances, prohibiting discrimination against employees involved with establishing charter schools, ensuring accountability, allowing the Schools for the Deaf and Blind to apply for authorization, and facilitating the creation of two youth programs modeled after the Mountaineer Challenge Academy; providing for public charter school access to public facilities; setting forth reporting requirements for certain authorizers and the State Superintendent; allowing public charter schools to elect to participate in certain state retirement systems; modifying requirements applicable after certain numbers of unexcused student absences; including professional personnel providing direct social and emotional support services to students and professional personnel addressing chronic absenteeism within the definition of “professional student support personnel”; increasing calculated net enrollment for the purposes of determining a county’s basic foundation program of certain counties with an actual net enrollment of less than 1,400; decreasing the percent of the levy rate used to calculate local share; basing the basic foundation allowance for professional student support personnel on a ratio; increasing the percentage used to calculate each county’s allowance for current expense; requiring that each county board receive its allocated state aid share of the county’s basic foundation program in the form of block grants; requiring the State Superintendent to provide the State Auditor with the required data for use by the searchable budget data website; including public charter schools in the provisions pertaining to an appropriation to serve certain exceptional children; increasing teacher salaries; providing that certain math and special education teachers be considered to have three additional years of experience for the purposes of the salary schedule; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the

objective of salary equity; adding to exceptions to requirement that county salary schedules be uniform; permitting a county board of education to base its reductions in force determinations on an individual's qualifications as defined in county board policy; modifying provisions pertaining to the preferred recall list and posting of position openings; removing requirement for county board to annually make available a list of all professional personnel employed, their areas of certification, and their seniority; providing that all personnel in a public charter school accrue seniority for the purpose of employment in noncharter public schools; increasing salaries for service personnel; increasing leave without cause days from three to four; requiring a bonus for classroom teachers who have not used more than four days of personal leave during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs the Underwood-Smith Teaching Scholars Program and the Teacher Education Loan Repayment Program; modifying requirements for Higher Education Policy Commission rules providing for administration of the programs; requiring that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field; continuing the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; requiring each award recipient to be distinguished as an Underwood-Smith Teaching Scholar; establishing uses for moneys in the Underwood-Smith Teaching Scholars Program Fund; providing for continuation of certain terms, conditions, requirements, and agreements; requiring the Vice Chancellor for Administration to appoint a selection panel to select Underwood-Smith Teaching Scholars; modifying eligibility criteria for Underwood-Smith Teaching Scholars; modifying Underwood-Smith Teaching Scholars award agreement requirements; modifying renewal requirements for an Underwood-Smith Teaching Scholars award; modifying conditions under which a recipient is not in violation of the agreement; requiring Underwood-Smith Teaching Scholars award to be used in

131 preparation for becoming a teacher in a critical shortage field in the public schools of this  
 132 state; increasing the amount of the annual award; requiring as a condition of loan  
 133 repayment award eligibility an applicant to be currently employed in a public school in this  
 134 state in a critical teacher shortage field or as a school counselor in a school or geographic  
 135 area of the state identified as an area of critical need for such field; requiring as a condition  
 136 of eligibility an applicant to agree to be employed full time for two school years in a critical  
 137 teacher shortage field or as a school counselor in a school or geographic area of critical  
 138 need for such field for each year for which a loan repayment assistance award is received;  
 139 modifying provisions pertaining to the amount of loan assistance and the requirements for  
 140 eligibility; modifying eligibility requirements for renewal of a loan repayment assistance  
 141 award; removing accumulated limit on loan repayment awards; increasing minimum Board  
 142 of Risk and Insurance Management coverage; requiring at least annual written notice of  
 143 Board of Risk and Insurance Management insurance coverages by county boards to  
 144 employee insureds; and allowing public charter schools to obtain insurance coverage from  
 145 the Board of Risk and Insurance Management.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-2. Definitions.**

1 The following words and phrases as used in this article, unless a different meaning is  
 2 clearly indicated by the context, have the following meanings:

(1) "Agency" means the Public Employees Insurance Agency created by this article.

(2) "Director" means the Director of the Public Employees Insurance Agency created by this article.

(3) "Employee" means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the State; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or ~~comprehensive mental retardation~~ intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 et seq. of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following



that instructional term: *Provided, however,* That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an “employee” during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an “employee” during the term of office of the appointed member: *Provided further,* That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an “employee” if that person meets the following criteria:

(A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(C) Works at least one-third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public

55 corporation charged by law with the performance of a governmental function and whose  
56 jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive  
57 community mental health center or ~~comprehensive mental retardation~~ intellectually and  
58 developmentally disabled facility established, operated or licensed by the Secretary of Health and  
59 Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state,  
60 county or municipal funds; a combined city-county health department created pursuant to §16-2-  
61 1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this  
62 code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the  
63 corporation is not considered an employer with respect to any employee other than a 21st Century  
64 Learner Fellow. Any matters of doubt as to who is an “employer” within the meaning of this article  
65 shall be decided by the director. The term “employer” does not include within its meaning the  
66 National Guard.

67 (5) “Finance board” means the Public Employees Insurance Agency finance board created  
68 by this article.

69 (6) “Person” means any individual, company, association, organization, corporation or  
70 other legal entity, including, but not limited to, hospital, medical or dental service corporations;  
71 health maintenance organizations or similar organization providing prepaid health benefits; or  
72 individuals entitled to benefits under the provisions of this article.

73 (7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the  
74 managed care plan option, or the group life insurance plan offered by the agency.

75 (8) “Retired employee” means an employee of the state who retired after April 29, 1971,  
76 and an employee of the Higher Education Policy Commission, the Council for Community and  
77 Technical College Education, a state institution of higher education or a county board of education  
78 who retires on or after April 21, 1972, and all additional eligible employees who retire on or after  
79 the effective date of this article, meet the minimum eligibility requirements for their respective  
80 state retirement system and whose last employer immediately prior to retirement under the state

retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-22. Permissive participation; exemptions.**

The provisions of this article are not mandatory upon any employee or employer who is not an employee of, or is not, the State of West Virginia, its boards, agencies, commissions, departments, institutions or spending units, or a county board of education, and nothing contained in this article compels any employee or employer to enroll in or subscribe to any insurance plan

5 authorized by the provisions of this article: Provided, That nothing in this section requires a public  
6 charter school to participate in the Public Employees Insurance Agency program.

7 Those employees enrolled in the insurance program authorized under the provisions of  
8 §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or  
9 plans authorized by the provisions of this article, and the employees of any department which has  
10 an existing insurance program for its employees to which the government of the United States  
11 contributes any part or all of the premium or cost of the premium may be exempted from the  
12 provisions of this article. Any employee or employer exempted under the provisions of this  
13 paragraph may enroll in any insurance program authorized by the provisions of this article at any  
14 time, to the same extent as any other qualified employee or employer, but employee or employer  
15 may not remain enrolled in both programs.

16 Any plan established or administered by the Public Employees Insurance Agency  
17 pursuant to this article is exempt from the provisions of chapter 33 of this code unless explicitly  
18 stated. Notwithstanding any provision of this code to the contrary, the Public Employees  
19 Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter  
20 33 of this code.

21 Employers, other than the State of West Virginia, its boards, agencies, commissions,  
22 departments, institutions, spending units, or a county board of education, are exempt from  
23 participating in the insurance program provided for by the provisions of this article unless  
24 participation by the employer has been approved by a majority vote of the employer's governing  
25 body. It is the duty of the clerk or secretary of the governing body of an employer who by majority  
26 vote becomes a participant in the insurance program to notify the director not later than 10 days  
27 after the vote.

28 Any employer, whether the employer participates in the Public Employees Insurance  
29 Agency insurance program as a group or not, which has retired employees, their dependents or  
30 surviving dependents of deceased retired employees who participate in the Public Employees

Insurance Agency insurance program as authorized by this article, shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer not mandated to participate in the plan is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years: *Provided, however*, That those retired employees of an employer not participating in the plan who retire on or after July 1, 2010, who have participated in the plan as active employees of the employer for less than five years are responsible for the entire premium cost for coverage and the Public Employees Insurance Agency shall bill for and collect the entire premium from the retired employees, unless the employer elects to pay the employer share of the premium. Each employer is hereby authorized and required to budget for and make such payments as are required by this section.

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

#### **§11-21-25. Education expenses tax credits.**

(a) Credit allowed. — For those tax years beginning on or after January 1, 2019, there is allowed a nonrefundable credit for expenses incurred for the purchase of supplementary education materials or professional development costs incurred by a classroom teacher, classroom aide, autism mentor, braille specialist, early childhood classroom assistant, paraprofessional, sign language assistant teacher, educational sign language interpreter, or sign support specialist employed by a public or private school.

7 (b) Amount of credit. — A person eligible for the credit pursuant to subsection (a) of this  
8 section may claim a tax credit not to exceed \$250.

9 (c) Qualifying educational expenses. — Qualifying expenses include costs relating to  
10 computer equipment, including education-related software and services, textbooks, workbooks,  
11 curricula, and other written or supplementary materials used for curricular, cocurricular, or extra-  
12 curricular instruction and expenses for curricular or cocurricular activities.

13 (d) Unused credit. — If any credit remains after application of §11-21-25(c) of this code,  
14 that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any  
15 unused portion of any annual credit allowance.

## CHAPTER 15. PUBLIC SAFETY.

### ARTICLE 1B. NATIONAL GUARD.

#### **§15-1B-24. Mountaineer Challenge Academy; expansion; cooperation of state executive agencies.**

1 (a) Subject to the agreement entered into between the United States Secretary of Defense  
2 and the Governor to establish, organize, and administer the Mountaineer Challenge Academy  
3 pursuant to 32 U.S.C. § 509, the Governor shall:

4 (1) Expand the capacity of the Mountaineer Challenge Academy location in Preston  
5 County to allow for a total of 600 cadets per year;

6 (2) Expand the Mountaineer Challenge Academy to a second location in Fayette County;  
7 and

8 (3) To the extent necessary to accomplish the requirements set forth in this subsection  
9 and to maximize the use of federal funds, pursue an amendment to the agreement entered into  
10 with the United States Secretary of Defense pursuant to 32 U.S.C. § 509.

11 (b) The Mountaineer Challenge Academy, operated by the Adjutant General at Camp  
12 Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs

of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby designated as a special alternative education program as is further provided pursuant to section §18-2-6 of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

(1) Include the Mountaineer Challenge Academy in the child nutrition program;

(2) Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

(3) Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

(c) Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.**

#### **§18-1-5. Student Success Act.**

This act, passed during the 2019 first extraordinary session of the Legislature, shall be known, and may be cited, as the Student Success Act.

### **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

#### **§18-2E-12. Mountain State Digital Literacy Project.**

(a) Beginning for the school year 2020-2021, the state board shall implement a pilot project, hereby designated the Mountain State Digital Literacy Project. The state board shall determine the number of schools eligible to participate in the pilot project and may adjust that

number on a yearly basis. The state board shall select the schools to participate in the project, but selected schools shall possess varying geographic and demographic characteristics and serve students in grades K-8.

(b) Subject to legislative appropriation for this purpose, schools participating in the project shall be provided with instructional resources for students and teachers that feature an extensive curriculum related to digital literacy, online assessment preparation, and internet safety. Administrators and teachers at the participating schools shall be provided access to online digital literacy related professional development and support.

(c) The project shall be designed and implemented to compliment and build upon the digital literacy standards and assessments established pursuant to §18-2-12, §18-2E-5(c)(16), and §18-2E-5(d)(5) of this code.

(d) The state board may contract with a third-party to facilitate the project. Any such third-party shall satisfy the following qualifications:

(1) Possesses demonstratable experience facilitating similar digital literacy initiatives with public school systems;

(2) Provides extensive digital literacy content over the internet that may be adapted to age or grade specific users and assessment tools, and integrates with widely used platforms; and

(3) Provides digital literacy-related professional development and support resources for administrators and teachers.

(e) On or before January 1, 2020, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability a report that provides information on the development, structure, and fiscal estimate of the Mountain State Digital Literacy Project.

## **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

### **§18-2I-4. Coordination, development and evaluation of professional development programs.**

(a) On or before ~~November 1, 2018~~ December 1, 2019, the state board shall promulgate



a rule in accordance with §29A-3B-1 *et seq.* of this code to ensure the coordination, development and evaluation of high-quality professional development programs. The rule shall include, but is not limited to, the following:

(1) All professional development provided to classroom teachers should be individualized at the school level based on the needs of the students and employees of the school, the recommendations of classroom teachers, and appropriate data where a need for school improvement has been identified;

~~(4)~~ (2) Standards for quality professional development that all professional development providers shall use in designing, implementing, and evaluating professional development that shall become part of the system for the coordinated delivery of high-quality professional development established by the state board;

~~(2)~~ (3) Processes for aggregating information, in part from school and school district strategic plans, to determine areas of common need for professional development, as well as those more varied, to assist in the design of the most effective and efficient method and level of delivery;

~~(3)~~ (4) Processes for assuring professional development resources are appropriately allocated to identified areas of need;

~~(4)~~ (5) Processes for evaluating the effectiveness, efficiency, and impact of the professional development;

~~(5)~~ (6) Processes for ensuring all stakeholders, including affected principals and classroom teachers, have a voice in the identification of needed professional development and various delivery models;

~~(6)~~ (7) Processes for collaboration among West Virginia Department of Education, county boards, principals and classroom teachers; and

~~(7)~~ (8) Processes for ensuring that the expertise and experience of state institutions of higher education with teacher preparation programs are included in developing and implementing

professional development programs.

(b) Prior to July 1, 2020, every teacher in the state shall receive professional development on addressing the social, emotional, and behavioral needs of students.

~~(b)~~ (c) The Center for Professional Development, formerly provided for under §18A-3A-1 *et seq.* of this code before the effective date of the amendment and reenactment of this section during the 2018 regular session of the Legislature, is hereby transferred to be under the authority and control of the state board. To assist in the delivery of high quality professional development for teachers, principals, and other school employees, the state board shall incorporate within the Department of Education the Center for Professional Development whose general mission shall be under the direction of the state board to advance the quality of teaching and learning in the schools of West Virginia through programs, technical assistance and support to schools and school systems to meet the legislative findings and goals of this article. The center shall perform other duties that may be assigned to it by the state board. In addition, the center shall provide statewide coordination for the continued growth and development of advanced placement programs in West Virginia high schools, including, but not limited to, serving as a liaison for The College Board, Inc., and providing for the training of advanced placement teachers.

(d) The State Board shall establish the "Principals Academy" which shall, at least, include:

(1) Training designed to build within principals the minimum qualities, proficiencies, and skills that will be required of all principals pursuant to the rules of the state board including training on the best practices from successful schools which should be considered for replication in other schools;

(2) Specialized training and professional development programs for all principals;

(3) Specialized training and professional development programs for the following principals:

(A) Newly appointed principals;

(B) Principals whose schools are low performing, as determined by the state board;

- 54            (C) Principals recommended by their county superintendent; and  
55            (D) Principals of schools with significantly different grade level configurations.

## ARTICLE 5. COUNTY BOARD OF EDUCATION.

### §18-5-16. Student transfers; ~~legislative findings~~ definitions; appeals; calculating net enrollment; fees for transfer.

1            ~~(a) County districts and school attendance.~~ Establishment of attendance zones within  
2 counties. — The county board ~~may divide~~ shall establish attendance zones within the county into  
3 ~~such districts as are necessary to determine~~ to designate the schools ~~the~~ that its resident students  
4 ~~of its county~~ shall attend. Upon the written request of any parent or guardian, or person legally  
5 responsible for any student, or for reasons affecting the best interests of the schools, the  
6 superintendent may transfer students from one school to another within the county. Any aggrieved  
7 person may appeal the decision of the county superintendent to the county board, and the  
8 decision of the county board ~~shall be~~ is final.

9            ~~(b) Transfers between counties; legislative findings —~~

10            ~~(1) Transfers of students from one county to another may be made by the county board of~~  
11 ~~the county in which the student desiring to be transferred resides. The transfer shall be subject to~~  
12 ~~the approval of both the board of the county in which the student resides and the board to which~~  
13 ~~the student wishes to be transferred.~~

14            ~~(2) Legislative findings. — Over the past several years, counties have been forced to close~~  
15 ~~a number of schools because of declining student enrollment. School officials predict that an~~  
16 ~~additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued~~  
17 ~~decrease in the number of students enrolled in the public schools of the state may result in more~~  
18 ~~instances of consolidation which will increase the problem of long bus rides for students if they~~  
19 ~~remain in a school in their county of residence.~~

20            ~~Therefore the Legislature makes the following findings:~~

21            ~~(A) County lines may impede the effective and efficient delivery of education services;~~

~~(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;~~

~~(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and~~

~~(D) Where counties cannot agree, it is necessary to establish a process to determine when transfers are appropriate.~~

~~(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.~~

~~(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:~~

~~(i) Travel time for the student;~~

~~(ii) Impact on levies or bonds;~~

~~(iii) Other financial impact on the county of residence; and~~

~~(iv) Such other factors as the state superintendent may determine.~~

~~(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.~~

~~(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.~~

~~(D) If a student is transferred on either a full-time or a part-time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process~~

~~established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.~~

~~(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:~~

~~(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine-a [§§ 18-9A-1 et seq.] of this chapter; and~~

~~(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.~~

~~(c) *Transfers between high schools.* -- In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.~~

~~(b) Definitions. – For the purposes of this section, unless a different meaning clearly appears from the context:~~

~~“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.~~

~~“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.~~

~~(c) Enrollment policies. – County boards shall establish and implement an open enrollment~~

policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

(E) Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

(2) A county must comply with all enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)).

(3) The county board for the county educating the nonresident student may provide an adequate means of transportation to nonresident students when students have complied with the procedure for obtaining authorization to attend school outside their county of residence, subject to the following:

(A) County boards of education are not required to uniformly provide nonresident student transportation, and may consider whether a nonresident student meets the eligibility criteria for

free or reduced price lunch and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. § 1758); and

(B) The county board for the county educating the nonresident student shall provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student is a student with disabilities and has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

(d) Appeal. – The state board of education shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to accept the transfer of the student. If during the appeal process, the State Superintendent discovers that the education and the welfare of the student could be enhanced, the State Superintended may direct that the student may be permitted to attend a school in the receiving county.

(e) Net enrollment. – For purposes of net enrollment as defined in §18-9A-2 of this code, whenever a student is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the student is transferred shall include the student in its net enrollment: *Provided*, That if, after transferring to another county, a student chooses to return to a school in his or her county of residence after the second month of any school year, the following applies:

(1) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in §18-9A-1 *et seq.* of this code; and

(2) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

~~(d)~~ (f) Transfers between states. — Transfer of students from this state to another state

shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the ~~transferring~~ receiving county and the authorities of the school ~~to~~ or district from which the transfer is made.

~~(e)~~ (g) No parent, guardian, or person acting as parent or guardian ~~shall be~~ is required to pay for the transfer of a student or for the tuition of the student after the transfer when ~~such~~ the transfer is carried out under the terms of this section.

(h) Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission.

(i) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

(a) The provisions of this section expire effective July 1, 2020: *Provided*, That any agreement made pursuant to this section prior to July 1, 2020, shall remain in effect.

(b) Whenever, in the opinion of the board of education of any county, the education and welfare of a pupil will be enhanced, the board of education of such county shall have the authority to transfer any such pupil or pupils on a part-time or full-time basis from one school district to another school district within the state: *Provided*, That the boards of education of both the transferor and the transferee districts agree to the same by official action of both boards as reflected in the minutes of their respective meetings.

(c) Any pupil attending a school in a district of this state adjacent to the district of residence during the school year 1984-1985, is authorized to continue such attendance in the adjacent district, and, upon written request therefor by the parent or guardian, any person who is entitled to attend the public schools of this state and who resides in the same household and is a member



of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor and transferee school districts shall effectuate any transfer herein authorized in accordance with the provisions of this section.

(d) Whenever a pupil is transferred from one school district to another district on a full-time or part-time basis, the board of education of the school district in which the pupil is a bona fide resident shall pay to the board of education of the school district to which the pupil is transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall not exceed the difference between the state aid per pupil received by the county to which the pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

(e) For purposes of net enrollment as defined in §18-9A-2 of this code: (1) Whenever a pupil is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the pupil is transferred shall include such pupil in its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

**§18-5-18a. Maximum teacher-pupil ratio.**

(a) County boards of education shall provide ~~by the school year 1983-84, and thereafter,~~ sufficient personnel, equipment, and facilities as will ensure that each first ~~and second~~ through sixth grade classroom, or classrooms having two or more grades that include ~~either the first or second~~ one or more of the first through sixth grades shall not have more than 25 pupils for each teacher of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session, unless the state superintendent has excepted a specific classroom upon application therefor by a county board.

~~County boards shall provide by the school year 1984-85, and continue thereafter, sufficient personnel, equipment and facilities as will ensure that each third, fourth, fifth and sixth grade classroom, or classrooms having two or more grades that include one or more of the third, fourth,~~

~~fifth and sixth grades, shall not have more than twenty-five pupils for each teacher of the grade or grades.~~

~~(b) Beginning with the school year 1986-87, and thereafter, no county shall~~ County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983. ~~Provided, That for the prior school years, and only if there is insufficient classroom space available in the school or county, a county may maintain one hundred ten percent of such number of classrooms.~~

~~(c) During the school year 1984-85, and thereafter, the~~ The state superintendent is authorized, consistent with sound educational policy, ~~(a)~~ to:

~~(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education;~~ (1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; ~~and (b) to~~

~~(2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades one~~ four through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

~~(d) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.~~

~~(e) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades one through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades one through six: Provided, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades one through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for~~

kindergarten teachers, or 25 for teachers of grades one through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on July 1, 1994, a teacher in grades one, two or three or classrooms having two or more such grade levels, shall not have more than two pupils above the teacher/pupil ratio as set forth in this section: *Provided*, That commencing with the school year beginning on July 1, 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth in this section: *Provided, however*, That commencing with the school year beginning on July 1, 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this section.

(f) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band or orchestra music.

(g) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

(h) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

(i) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas.

**§18-5-18b. School counselors in public schools.**

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18A-1-1 of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American School Counselor Association ~~school counselor association~~. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least ~~seventy-five~~ 80 percent of work time in a direct counseling relationship with pupils, and shall devote no more than ~~one-fourth~~ 20 percent of the work day to administrative activities: *Provided*, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

**§18-5-45. School calendar.**

(a) As used in this section:

(1) "Instructional day" means a day within the instructional term which meets the following

criteria:

(A) Instruction is offered to students for at least ~~the minimum number of minutes as follows:~~  
an average of five hours per day throughout the instructional term;

~~(i) For early childhood programs as provided in subsection (d) section forty-four of this article;~~

~~(ii) For schools with grade levels kindergarten through and including grade five, 315 minutes of instructional time per day;~~

~~(iii) For schools with grade levels six through and including grade eight, 330 minutes of instructional time per day; and~~

~~(iv) For schools with grade levels nine through and including grade twelve, 345 minutes of instructional time per day.~~

(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) "Cocurricular activities" are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board; and

(3) "Instruction delivered through alternative methods" means a plan developed by a county board and approved by the state board for teachers to assign and grade work to be completed by students on days when schools are closed due to inclement weather or other unforeseen circumstances.

(b) *Findings.* –

(1) The primary purpose of the school system is to provide instruction for students.

(2) School systems must have sufficient flexibility to design the school day in a way that best provides quality instruction to their students;

(3) Critical to the delivery of quality instruction is sufficient collaborative time among educators within the work day;

~~(2)~~ (4) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.

~~(3)~~ (5) The school calendar shall provide for 180 separate instructional days or an equivalent amount of instructional time as provided in ~~this section~~ state board rule.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least 200 days, which need not be successive. The beginning and closing dates of the employment term may not exceed 48 weeks;

(2) Within the employment term, an instructional term for students of no less than 180 separate instructional days with an average of five hours of instruction per day, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than 180 separate instructional days: ~~subject to the following~~ Provided, That subject to approval of its plan by the state board, a county board may deliver instruction through alternative methods on up to five days when schools are closed due to inclement weather or other unforeseen circumstances and these days are instructional days notwithstanding the closure of schools;

~~(A) A county board may increase the length of the instructional day as defined in this section by at least thirty minutes per day to ensure that it achieves at least an amount of instructional time equivalent to one hundred and eighty separate instructional days within its school calendar and:~~

~~(i) Apply up to five days of this equivalent time to cancel days lost due to necessary school closures;~~

~~(ii) Plan within its school calendar and not subject to cancellation and rescheduling as instructional days up to an additional five days or equivalent portions of days, without students present, to be used as determined by the county board exclusively for activities by educators at the school level designed to improve instruction; and~~

~~(iii) Apply any additional equivalent time to recover time lost due to late arrivals and early~~

dismissals;

~~(B) Subject to approval of its plan by the state board, a county board may deliver instruction through alternative methods on up to five days when schools are closed due to inclement weather or other unforeseen circumstances and these days are instructional days notwithstanding the closure of schools; and~~

~~(C) The use of equivalent time gained by lengthening the school day to cancel days lost, and the delivery of instruction through alternative methods, both as defined in this section, shall be considered instructional days for the purpose of meeting the 180 separate day requirement and as employment days for the purpose of meeting the 200 day employment term.~~

(3) Within the employment term, noninstructional days shall total 20 and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in §18A-5-2 of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the 130th instructional day of the school calendar;

(D) One day to be designated by the county board to be used by the employees for preparation for opening school and one day to be designated by the county board to be used by the employees for preparation for closing school: *Provided*, That the school preparation days may be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion; and

(E) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

(ii) Professional development;

(iii) Teacher-pupil-parent conferences;

81 (iv) Professional meetings;

82 (v) Making up days when instruction was scheduled but not conducted; and

83 (vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-  
84 hour block of time scheduled in the first month of the employment term, at least one two-hour  
85 block of time scheduled in the last month of the employment term and at least one two-hour block  
86 of time scheduled in each of the months of October, December, February and April; and

87 (4) Scheduled out-of-calendar days that are to be used for instructional days in the event  
88 school is canceled for any reason.

89 ~~(d) A county board of education shall develop a policy that requires additional minutes of~~  
90 ~~instruction in the school day or additional days of instruction to recover time lost due to late arrivals~~  
91 ~~and early dismissals.~~ School calendars shall be designed in a manner that achieves the minimum  
92 average of five hours per day notwithstanding late arrivals and early dismissals.

93 (e) If it is not possible to complete 180 separate instructional days with the current school  
94 calendar, ~~and the additional five days of instructional time gained by increasing the length of the~~  
95 ~~instructional day as provided in subsection (c) of this section are insufficient to offset the loss of~~  
96 ~~separate instructional days,~~ the county board shall schedule instruction on any available  
97 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an  
98 out-of-calendar day and the day will be used for instruction of students: *Provided, That the*  
99 provisions of this subsection do not apply to:

100 (1) Holidays;

101 (2) Election day; and

102 (3) Saturdays and Sundays. ~~and~~

103 ~~(4) The five days or equivalent portions of days planned within the school calendar~~  
104 ~~exclusively for activities by educators at the school level to improve instruction that are gained by~~  
105 ~~increasing the length of the instructional day as provided in subsection (c) of this section.~~

106 (f) The instructional term shall commence and terminate on a date selected by the county



107 board.

108 (g) The state board may not schedule the primary statewide assessment program more  
109 than 30 days prior to the end of the instructional year unless the state board determines that the  
110 nature of the test mandates an earlier testing date.

111 (h) The following applies to cocurricular activities:

112 (1) The state board shall determine what activities may be considered cocurricular;

113 (2) The state board shall determine the amount of instructional time that may be consumed  
114 by cocurricular activities; and

115 (3) Other requirements or restrictions the state board may provide in the rule required to  
116 be promulgated by this section.

117 (i) Extracurricular activities may not be used for instructional time.

118 (j) Noninstructional interruptions to the instructional day shall be minimized to allow the  
119 classroom teacher to teach.

120 (k) Prior to implementing the school calendar, the county board shall secure approval of  
121 its proposed calendar from the state board or, if so designated by the state board, from the state  
122 superintendent.

123 (l) In formulation of a school's calendar, a county school board shall hold at least two public  
124 meetings that allow parents, teachers, teacher organizations, businesses and other interested  
125 parties within the county to discuss the school calendar. The public notice of the date, time and  
126 place of the public hearing must be published in a local newspaper of general circulation in the  
127 area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this  
128 code or published prominently on the county board of education's website.

129 (m) The county board may contract with all or part of the personnel for a longer term of  
130 employment.

131 (n) The minimum instructional term may be decreased by order of the state superintendent  
132 in any county declared a federal disaster area and in any county subject to an emergency or

disaster declaration by the Governor when the event causing the declaration is substantially related to the loss of instructional days in the county.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter 18, 18A, 18B and 18C of this code to maintain compliance in reaching the mandatory 180 separate instructional days established in this section.

(p) The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code for the purpose of implementing the provisions of this section.

**§18-5-45a. Legislative findings; time lost due to work stoppage or strike; effect on pay and extracurricular activities; closure of schools due to work stoppage or strike prohibited.**

(a) Legislative findings. —

(1) The West Virginia Supreme Court of Appeals held, in *Jefferson County Bd. of Educ. v. Jefferson County Educ. Ass'n*, 183 W. Va. 15 (1990), that “[p]ublic employees have no right to strike in the absence of express legislation or, at the very least, appropriate statutory provisions for collective bargaining, mediation, and arbitration.”

(2) Public employees in West Virginia have no right, statutory or otherwise, to engage in collective bargaining, mediation, or arbitration, and any work stoppage or strike by public employees is hereby declared to be unlawful. Furthermore, any work stoppage or strike by employees of a county board of education poses a serious disruption to the thorough and efficient system of free schools, guaranteed to the children of West Virginia by section one, article XII of the Constitution of West Virginia.

(3) Section 18-5-45 of this code is designed to define the school term both for employment of school personnel and for instruction of students. The employment term consists of at least 200 days and, within the employment term, an instructional term for students must consist of at least 180 separate instructional days. Section 18-5-45 of this code also requires instruction to be

16 offered to students for at least an average of five hours per day throughout the 180-day  
17 instructional term. This means that there can be zero hours of instruction on one or more days so  
18 long as the average instructional time per day over the 180 days is at least five hours.  
19 Furthermore, §18-5-45 of this code allows a county board, subject to approval of its plan by the  
20 state board, to deliver instruction through alternative methods on up to five days when schools  
21 are closed and provides that these days are considered to be instructional days, notwithstanding  
22 the closure of schools.

23 (4) The Legislature intended, by providing for the ability to have zero hours of instruction  
24 on an instructional day and the use of alternative methods to deliver instruction on days when  
25 schools are closed, as defined in §18-5-45 of this code, to: (1) Provide flexibility for collaborative  
26 time and other methods of improving instruction; and (2) lessen the disruption to the planned  
27 school calendar if rescheduling and adding instructional days became necessary to make up lost  
28 days due to closures pursuant to §18-4-10(5) of this code, when conditions are detrimental to the  
29 health, safety, or welfare of pupils. The Legislature did not intend with the enactment of these  
30 provisions to permit a reduction in the instructional term for students or in the employment term  
31 for personnel when the conditions causing the closure of the school are a concerted work  
32 stoppage or strike by the employees.

33 (b) For the purposes of this section, an employee of a county board of education is  
34 considered to be participating in a concerted work stoppage or strike if, on any day during a  
35 concerted stoppage of work or interruption of operations by the employees of the county board of  
36 education:

37 (1) The employee does not report to work as required by his or her contract of employment;  
38 (2) The employee is not on leave, as specifically permitted by any provision of this code:  
39 Provided, That nothing in this section permits an employee to use personal leave in connection  
40 with a work stoppage or strike, in violation of §18A-4-10 of this code; and

41       (3) The employee is not otherwise prevented from reporting to work based on  
42 circumstances beyond the employee's control, that are unrelated to the employee's participation  
43 in the ongoing concerted work stoppage or strike, as determined by the county superintendent.

44       (c) The provisions of §18-5-45 of this code, allowing zero hours of instruction, so long as  
45 at least an average of 5 hours per day is attained, and the delivery of instruction through  
46 alternative methods, do not apply to and may not be used to cancel days lost due to a concerted  
47 work stoppage or strike. Notwithstanding any provision of this code to the contrary, the state board  
48 may not grant a waiver to a county board of education for its noncompliance with the 200-day  
49 minimum employment term or the 180-day average instructional day requirements if such  
50 noncompliance is the result of a concerted work stoppage or strike.

51       (d) If an employee remains employed by the county board of education, notwithstanding  
52 his or her participation in a concerted work stoppage or strike, which the Legislature hereby  
53 determines to be a ground for termination, the county board of education shall withhold the  
54 prorated salary or hourly pay of each employee participating in the concerted work stoppage or  
55 strike for each day that such employee participates in a concerted work stoppage or strike, and  
56 such sums shall be forfeited to the county board of education.

57       (e) If an originally scheduled instructional day or noninstructional day is canceled due to a  
58 concerted work stoppage or strike by the employees assigned to a school, the school for which  
59 the day was canceled may not participate in any extracurricular activities during any part of that  
60 same day.

61       (f) No superintendent may close a school in anticipation of or to facilitate a concerted work  
62 stoppage or strike.

**§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating**  
**to promotion.**

1       (a) No teacher may be required by a principal or any other person to change a student's  
2 grade on either an individual assignment or a report card unless there is clear and convincing

evidence that there was a mathematical error in calculating the student's grade.

(b) The teacher's recommendation relating to whether a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

**§18-5-48. County board exceptional needs expenditures from surplus funds.**

Each county board may by policy establish an exceptional needs fund from surpluses for students who are likely to perform better outside of the public school setting. The policy may include:

(1) Allowing the county board to use excess funds or donated funds for expenditures related to services and materials necessary for that student's educational success that are not met within the public education school district;

(2) The amount of funds that is to be deposited into the fund each year which may vary based on availability of surpluses;

(3) The qualifying expenses that funds in the fund may be used for;

(4) Measures for protecting against improper use of the funds which may include auditing all expenditures related to an individual student for services outside of the public education district;

(5) The conditions under which payments from the Exceptional Needs Success Fund are to cease;

(6) Eligibility requirements for education service providers that can accept payments from the fund;

(7) A requirement that any overpayments recaptured from refunded expenditures revert to the Exceptional Student Success Fund; and

(8) Any other provision the county board determines appropriate.

**ARTICLE 5E. INNOVATION IN EDUCATION ACT.**

**§18-5E-1. Purpose.**

The purpose of this act is to encourage and incentivize public schools to improve overall student outcomes. ~~through the implementation of key innovational priorities for improving~~

3 education in the following areas:

4 ~~(1) Science, technology, engineering and math (STEM);~~

5 ~~(2) Community school partnership;~~

6 ~~(3) Entrepreneurship;~~

7 ~~(4) Career pathways; and~~

8 ~~(5) The arts.~~

9 This act provides a mechanism for public schools designated by ~~the state board~~ a county  
10 board as Innovation in Education schools to redesign their curriculum, instructional delivery and  
11 instructional strategies, to enhance student engagement, to develop meaningful community  
12 partnerships and to operate under greater flexibility to increase student achievement.

**§18-5E-2. Innovation in Education school defined.**

1 (a) An Innovation in Education school is a public school in this state that applies to and is  
2 designated by ~~the state board~~ a county board in accordance with this article as an Innovation in  
3 Education School. ~~with a principal focus in one of the following areas:~~

4 ~~(1) Science, technology, engineering and math (STEM);~~

5 ~~(2) Community school partnership;~~

6 ~~(3) Entrepreneurship;~~

7 ~~(4) Career pathways; and~~

8 ~~(5) The arts.~~

9 ~~(b) Nothing in this article prohibits an Innovation in Education school from incorporating~~  
10 ~~more than one of the attributes of STEM education, community school partnerships,~~  
11 ~~entrepreneurship, career pathways or the arts into its program design, notwithstanding the~~  
12 ~~primary designation under which it applies or is subsequently designated.~~

13 (c) An Innovation in Education school:

14 (1) Shall provide a program of public education that includes one or more of the grade  
15 levels prekindergarten to grade 12, including any associated post-secondary dual credit,

advanced placement and industry or workforce credential programs;

(2) Shall design its educational program to meet or exceed the student performance standards required under §18-2E-5 of this code and is subject to all student assessment, accreditation and federal accountability requirements applicable to other public schools in this state. However, nothing shall prohibit an Innovation in Education school from establishing additional student assessment measures or implementing competency-based course completion strategies that go beyond state requirements;

(3) Shall operate according to an Innovation in Education plan developed by the school's principal and faculty with input from its local school improvement council, the county board, the county superintendent and, if the school is a high school, the students of the school;

(4) Shall, if designated by the state board as an Innovation in Education Demonstration School, host visits and tours of its facility and programs to provide information and an opportunity to observe any successful innovations which may be replicated in other schools. The school may require the payment of a fee to off-set the cost of hosting such visits and tours; and

(5) May solicit and accept gifts, donations or grants for school purposes from public or private sources in any manner that is available to a local school district and expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor except that a gift, donation or grant may not be accepted if subject to a condition that is contrary to any provision of law or term of the school's Innovation in Education plan. Any monies received by an Innovation in Education school from any source remaining in the school's accounts at the end of a fiscal year shall remain in its accounts for use during subsequent fiscal years.

**§18-5E-3. Application for Innovation in Education school designation; application review and approval; state board rule.**

(a) ~~The state board~~ A county board may designate a school as a ~~STEM, community school partnership, entrepreneurship, career pathways or the arts~~ an Innovation in Education school in accordance with this article. ~~and The state board~~ shall promulgate a rule, including an emergency

rule if necessary, in accordance with §29A-3B-1 *et seq.* of this code to implement the provisions of this article. The rule shall include at least the following:

(1) A process for a school to apply for designation as an Innovation in Education school; ~~in STEM, community school partnership, entrepreneurship, career pathways or the arts~~

(2) Clear and concise application evaluation factors in rubric form, including standards for the ~~state board~~ county board to review and make a determination of whether to designate an applicant as an Innovation in Education school;

(3) The manner, time and process for application submission;

(4) The form and necessary contents of the application, including but not limited to, the following:

(A) The proposed mission and vision of the school as it pertains to becoming an Innovation in Education school ~~including identification of the designation it seeks to obtain as a primary focus on which may include: (i) Science, technology, engineering and math (STEM); (ii) community school partnership; (iii) entrepreneurship; (iv) career pathways; or (v) the arts;~~

(B) An executive summary;

~~(C) The school's proposed academic program, including a description of the school's instructional design, learning environment, class structure, curriculum overview, teaching methods, research basis and other elements required in the school's Innovation in Education plan pursuant to section four of this article;~~

~~(D)~~ (C) A clear articulation of the areas of autonomy and flexibility in curriculum, budget, school schedule and calendar, professional development, and staffing policies and procedures, and any other areas of autonomy and flexibility which would require a waiver of policy or code: Provided, That no waivers from state board rules may be granted without the approval of the state board; and

~~(E)~~ (D) The school's Innovation in Education plan. and

(5) Following the initial evaluation of Innovation in Education schools as provided in §18-



5E-6 of this code, the process by which the ~~state board~~ county board will periodically review the performance and student success of Innovation in Education schools, reaffirm or reconsider the designation of a school; ~~and identify exemplary schools to serve as demonstration sites and~~

(6) The process by which the state board will identify exemplary schools to serve as a demonstration site.

(b) The ~~state board~~ county board may provide for the ~~West Virginia Department of Education~~ county superintendent to independently assess applicants based on the evaluation factors rubric and provide the ~~state board~~ county board with this assessment. The ~~state board~~ county board shall consider the evaluation factors in rubric form in making any Innovation in Education school designation determination. In making a designation determination, the ~~state board~~ county board shall:

(1) Grant a designation only to applicants who have demonstrated competence in each element of the evaluation factors and who have demonstrated their capacity to operate an Innovation in Education school that will increase student achievement;

(2) Base determinations on documented evidence collected through the application review process;

(3) If appropriate, include in a designation determination reasonable conditions that the applicant must meet before commencing operation under the designation, including resubmission of the application;

(4) Decline weak or inadequate applications and clearly state its reasons for denial;

(5) Make and announce all designations of Innovation in Education schools in a meeting open to the public and clearly state in a resolution the reasons for the decisions. A copy of the resolution shall be submitted to Legislative Oversight Commission on Education Accountability; and

(6) Convey its determination on an application in writing to the applicant.

(c) An Innovation in Education school may not commence or continue operations without

56 a signed operational agreement as provided in §18-5E-5 of this code between the county board  
57 and the school principal.

**§18-5E-4. Innovation in Education Plan; required contents; measurable annual performance goals; uses.**

1 The Innovation in Education Plan for a ~~STEM, community school partnership,~~  
2 ~~entrepreneurship, career pathways or the arts~~ an Innovation in Education school shall include  
3 each of the following:

4 ~~(1) A description of how the school will address the overall climate and culture of the school~~  
5 ~~as a high performing learning environment in which every child may succeed to the best of his or~~  
6 ~~her ability, including but not limited to measurable annual goals to:~~

7 ~~(A) Increase overall student achievement;~~

8 ~~(B) Address dropout prevention; and~~

9 ~~(C) Transform school culture;~~

10 ~~(2) A curriculum plan that includes a detailed description of the curriculum and related~~  
11 ~~programs for the proposed school and how the curriculum is expected to improve school~~  
12 ~~performance and student achievement;~~

13 ~~(3)~~ (1) Measurable annual performance goals to assess the school's performance and  
14 student success across multiple measures and that will serve as the basis for evaluating the  
15 Innovation in Education school, including but not limited to, goals relating to the following:

16 (A) Student attendance;

17 (B) Student safety and discipline;

18 (C) Student promotion and graduation and dropout rates;

19 (D) Student performance on the state-wide summative assessment and other assessment  
20 required by the state board;

21 (E) Progress in areas of academic underperformance;

22 (F) Progress among subgroups of students, including, but not limited to, low-income

students and students receiving special education;

(G) With respect to high school, postsecondary readiness, including the percentage of graduates submitting applications to postsecondary institutions, and postsecondary enrollment or employment; and

(H) Parent and community engagement; and

~~(4) A budget plan that includes a detailed description of how funds will be used in the proposed school to support school performance and student achievement that is or may be different than how funds are used in other public schools in the district;~~

~~(5) A school schedule plan that includes a detailed description of the ways the program or calendar of the proposed school may be enhanced or expanded;~~

~~(6) A staffing plan and professional development plan that includes a detailed description of how the school may provide professional development to its administrators, teachers and other staff;~~

~~(7)~~ (2) A policies and procedures plan that includes:

(A) A detailed description of the unique operational policies and procedures to be used by the school seeking designation and how the procedures will support school performance and student achievement; and

(B) Any exemptions to rule, policy or statute the school is seeking subject to approval of the state board: *Provided*, That a school may not request an exemption nor may an exemption be granted from any assessment program required by the state board or any provision of law or policy required by the Every Student Succeeds Act of 2015 or other federal law; and

~~(8) The school's plan, if any, for using additional internal and external metrics of the performance agreed to by the school and the county board to measure the school's performance and student success;~~

~~(9) Opportunities and expectations for parent involvement; and~~

~~(8)~~ (3) Any other information the state board requires.

**§18-5E-5. Operational agreement between Innovation in Education school and county board.**

1 An Innovation in Education school designated by the ~~state board~~ county board may not  
2 commence or continue operations without a signed operational agreement between the county  
3 board and the school principal which sets forth at least the following:

4 (1) Any conditions which must be met before the Innovation in Education school may begin  
5 full operations. If necessary, the full implementation of an Innovation in Education school may be  
6 postponed for up to one school year following its initial designation to enable all conditions  
7 necessary for full operation to be met;

8 (2) Any material term of the school's Innovation in Education Plan concerning curriculum,  
9 budget, school schedule, calendar, staffing, professional development, and policies and  
10 procedures to be adhered to by both the county board and the school;

11 (3) An agreed-upon process for amending or refining the school's Innovation in Education  
12 Plan to improve the school's performance and student success, including but not limited to, the  
13 request for additional waivers of rules, policies, interpretations and statutes through the local  
14 school improvement council process;

15 (4) The annual performance targets set by the county board and the school to assess and  
16 evaluate the school's progress in achieving its annual ~~measurable~~ measurable goals as set forth  
17 in its Innovation in Education Plan, including any additional internal and external metrics of  
18 performance agreed to by the school and the county board to measure the school's performance  
19 and student success. The annual performance targets may be refined or amended by mutual  
20 agreement of the county board and the school after the school has been fully operational for one  
21 year and has collected baseline performance data;

22 (5) The process and criteria that the county board will use to annually monitor and evaluate  
23 the overall performance and student success of the school, including a process to conduct annual  
24 site visits;

(6) Any information needed by the county board from the school for the purposes of accountability and reporting by the school on the implementation of its mission as an Innovation in Education school;

(7) The process the county board will use to notify the school of any deficiencies and the process by which the school may submit an improvement plan; and

(8) In the event that an Innovation in Education school's performance appears unsatisfactory, specific provisions addressing the parameters under which the county board may promptly notify the school in writing of perceived problems and provide reasonable opportunity for the school to remedy the problems, or if not remedied, may intervene, require a remedial action plan and potentially revoke the designation, or recommend to the state board that it ~~place the school's designation on probationary status, require a remedial action plan and potentially revoke the designation~~ exercise powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools pursuant to §18-2E-5(k) of this code. At a minimum, these parameters shall include the circumstances of poor fiscal management and a lack of academic progress.

**§18-5E-6. Evaluation of Innovation in Education designated schools.**

(a) During its third full year of operation the county superintendent shall issue a performance report on the Innovation in Education school. The performance report shall summarize the school's performance record to date based on the data collected under school's Innovation in Education Plan and operational agreement and shall provide notice of any weaknesses or concerns perceived by the superintendent concerning the school that may jeopardize its designation if not timely rectified. The school and the superintendent shall mutually agree to a reasonable time period for the school to respond to the performance report and submit any corrections to the report.

(b) After its fourth full year of operation, and periodically thereafter as may be provided by the ~~state board~~ county board, the Innovation in Education school shall be evaluated by the county

11 superintendent. The county superintendent shall submit the evaluation to the county board and  
12 the state board. The evaluation shall determine whether the school has met the annual goals  
13 outlined in its Innovation in Education Plan and operational agreement and assess the  
14 implementation of the Innovation in Education plan at the school.

15 (c) The county superintendent may recommend to the county board ~~and state board~~ in the  
16 evaluation:

17 (1) To amend or suspend one or more components of the Innovation in Education Plan  
18 and operational agreement if the county superintendent determines an amendment or suspension  
19 is necessary to improve the performance and student success of the school;

20 (2) To amend or suspend one or more components of the Innovation in Education Plan  
21 and operational agreement if the county superintendent determines an amendment or suspension  
22 is necessary because of subsequent changes in the district that affect one or more components  
23 of such Innovation in Education Plan;

24 (3) To support continued operation of the Innovation in Education school in accordance  
25 with its Innovation in Education Plan and operational agreement; or

26 (4) To recommend to the state board that the school be designated as an Innovation in  
27 Education Demonstration School based on its exemplary performance and student success.

28 (d) Based on the county superintendent's evaluation ~~and a data analysis conducted by~~  
29 ~~the West Virginia Department of Education the state board~~ the county board may:

30 (1) Amend ~~or recommend an amendment to~~ one or more components of the school's  
31 Innovation in Education Plan and operational agreement;

32 (2) Suspend one or more components of the school's Innovation in Education Plan and  
33 operational agreement;

34 (3) Affirm continuation of the Innovation in Education school under its current Innovation  
35 in Education Plan and operational agreement; or

36 (4) If it is determined that the school has substantially failed to meet the goals outlined in

its Innovation in Education Plan and operational agreement, terminate the Innovation in Education designation of the school.

(e) An amendment, suspension or termination may not take place before the completion of the school year.

(f) A school may appeal to the state board any determination made by a county board pursuant to this article.

## **ARTICLE 5G. PUBLIC CHARTER SCHOOLS.**

### **§18-5G-1. Legislative purpose and intent.**

The West Virginia Legislature hereby authorizes the establishment of public charter schools to benefit students, parents, teachers, and community members by creating new, innovative, and more flexible ways of educating all children within the public school system under the general supervision of the state board and by advancing a renewed commitment to the mission, goals, and diversity of public education. The purposes of the public charter school initiative are to:

(1) Improve student learning by creating more diverse public schools with high standards for student performance;

(2) Provide innovative educational methods and practices through programs that engage students in the learning process, thus resulting in higher student achievement;

(3) Enable schools to establish a distinctive school curriculum, a specialized academic theme, or method of instruction; and

(4) Allow schools enhanced freedom and flexibility in exchange for exceptional levels of results-driven accountability.

### **§18-5G-2. Definitions.**

The following words used in this article and any proceedings pursuant thereto have the following meanings unless the context clearly indicates a different meaning:

(1) "Applicant" means:

4       (A) Any group or entity with 501(c)(3) tax-exempt status or that has submitted an  
5       application for 501(c)(3) tax-exempt status that develops and submits an application for a public  
6       charter school to an authorizer; and

7       (B) Any accredited West Virginia public institution of higher education that develops and  
8       submits an application for a public charter school to an authorizer;

9       (2) "Authorizer" means the entity authorized under this article to review and approve or  
10       deny charter applications, enter into charter contracts with applicants, oversee public charter  
11       schools, and determine whether to renew, not renew, or revoke charter contracts. Authorizers  
12       include:

13       (A) A county school board in the county in which a public charter school is proposed to be  
14       located unless that county school board elects to not be an authorizer through a majority vote of  
15       its members and communicates its determination to the state board;

16       (B) Two or more county school boards representing the several counties which a public  
17       charter school is proposed to serve: *Provided*, That a county school board may elect to not be  
18       an authorizer by a majority vote of its members and communicating its determination to the state  
19       board; and

20       (C) The state board: *Provided*, That the state board may only authorize public charter  
21       schools for counties in which the county school district board has communicated its determination  
22       to not be an authorizer and pursuant to any state board rule promulgated pursuant to §18-5G-  
23       11(d) and §18-5G-11(e) of this code;

24       (3) "Charter application" means a proposal from an applicant to an authorizer to enter into  
25       a charter contract whereby the proposed school obtains public charter school status;

26       (4) "Charter contract" or "contract" means a fixed-term, renewable contract between a  
27       public charter school's governing board and an authorizer that identifies the roles, powers,  
28       responsibilities, operational duties, accountability, and performance expectations for each party  
29       to the contract, consistent with the requirements of this article;



30 (5) "Conversion public charter school" means a public charter school that existed as a  
31 noncharter public school before becoming a public charter school;

32 (6) "County board" means a county board of education;

33 (7) "Education service provider" means an education management organization, school  
34 design provider, or any other partner entity with which a public charter school contracts for  
35 educational design, implementation, or comprehensive management;

36 (8) "Governing board" means the independent board of directors for a public charter school  
37 that is a party to the charter contract with the authorizer and whose members have been elected  
38 or selected pursuant to the charter application;

39 (9) "Noncharter public school" means a public school other than a public charter school  
40 established pursuant to this article;

41 (10) "Parent" means a parent, guardian, or other person or entity having legal custody  
42 over a child;

43 (11) "Public charter school" means a public school established pursuant to this article that:

44 (A) Is a public corporate body, exercising public power through its governing board,  
45 including the power in name to contract and be contracted with, sue and be sued, and adopt  
46 bylaws not inconsistent with this article;

47 (B) Has autonomy over decisions relating to finance, personnel, scheduling, curriculum,  
48 and instruction consistent with this article and its charter contract;

49 (C) Is considered part of the county school district in which the public charter school is  
50 located;

51 (D) Is established and operating under the terms of a charter contract between the public  
52 charter school's governing board and its authorizer;

53 (E) Is a public school to which parents choose to send their children;

54 (F) Is a public school that admits students on the basis of open enrollment or, if more  
55 students apply for admission than can be accommodated, a random and open lottery, pursuant

56 to and subject to §18-5G-4 of this code;

57 (G) Offers a comprehensive instructional program that meets or exceeds the student  
58 performance standards adopted pursuant to §18-2E-5 of this code;

59 (H) Operates under the oversight of its authorizer in accordance with its charter contract;  
60 and

61 (I) Meets all requirements for being eligible for federal funds as a charter school.

62 (12) "State board" means the West Virginia Board of Education; and

63 (13) "Student" means any person that is eligible for attendance in a public school in West  
64 Virginia.

**§18-5G-3. Authorization for the establishment of public charter schools; governing board.**

1 (a) A public charter school shall be part of the state's system of public education but shall  
2 be exempt from all statutes and administrative regulations applicable to the state board, a county  
3 board, or a school unless expressly stated otherwise in this article such as the requirement in this  
4 article for charter school participation in the state summative assessment, subject to the following:

5 (1) Public charter schools shall adhere to the same immunization, civil rights, and disability  
6 rights requirements applicable to noncharter public schools; and

7 (2) Nothing in this article prohibits a public charter school from complying with any statute,  
8 state board policy, or county board policy applicable to noncharter public schools.

9 (b) A public charter school shall not have entrance requirements or charge tuition or fees:  
10 Provided, That a public charter school may require the payment of fees on the same basis and to  
11 the same extent as noncharter public schools.

12 (c) A public charter school shall not have the power to levy taxes.

13 (d) No elected official may profit or receive any monetary consideration from a charter  
14 school: Provided, That this prohibition does not apply with respect to the continued employment  
15 of an elected official who was employed by a public school prior to its conversion to a public  
16 charter school.

17 (e) A public charter school shall:

18 (1) Be governed by a governing board;

19 (2) Provide instructional time that is at least equal to the number of days or their equivalent  
20 required by §18-5-45 of this code;

21 (3) Require criminal background checks for staff and volunteers, including members of its  
22 governing board, as required of all noncharter public school employees and volunteers;

23 (4) Prohibit contractors and service providers or their employees from making direct,  
24 unaccompanied contact with students or accessing school grounds unaccompanied when  
25 students are present if it cannot be verified that the contractors, service providers, or their  
26 employees have not been previously convicted of a qualifying offense pursuant to §18-5-15c of  
27 this code;

28 (5) Ensure student participation in the required state summative assessment pursuant to  
29 §18-2E-5 of this code;

30 (6) Adhere to generally accepted accounting principles and adhere to the same financial  
31 audits, audit procedures, and audit requirements applicable to noncharter public schools;

32 (7) Utilize the same system for reporting student information data and financial data as is  
33 utilized by noncharter public schools;

34 (8) Comply with the Freedom of Information Act as set forth in §29B-1-1 et seq. of this  
35 code;

36 (9) Report data using the West Virginia Education Information System or successor data  
37 reporting system that noncharter public schools use;

38 (10) Operate under the oversight of its authorizer in accordance with its charter contract;

39 (11) As a public corporate body, have the powers necessary for carrying out the terms of  
40 its charter contract, including, but not limited to the power to:

41 (A) Receive and disburse funds for school purposes;

42 (B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(12) Enroll students in the public charter school pursuant to §18-5G-4 of this code;

(13) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board;

(14) Serve one or more of grades pre-K through 12 and limit admission to students within the grade levels served; and

(15) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations.

A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(f) A public charter school may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools;

69 and

70 (5) Participate in extracurricular activities to the same extent as noncharter public schools.

71 (g) Public charter school governing board. —

72 (1) To ensure compliance with this article, a public charter school shall be administered  
73 by a governing board accountable to the authorizer as set forth in the charter contract. A public  
74 charter school governing board shall consist of no fewer than five members.

75 (2) The governing board shall consist of at least:

76 (A) Two parents of students attending the public charter school operating under the  
77 governing board; and

78 (B) One member of the county board over the school district in which the public charter  
79 school is located if the county board elects to appoint a member: *Provided*, That refusal by any  
80 county board members to sit on the governing board shall not preclude the establishment of a  
81 charter school.

82 (3) Members of the governing board shall:

83 (A) Not be an employee of the public charter school administered by the governing board;

84 (B) Not be an employee of an education service provider that provides services to the  
85 public charter school; and

86 (C) File a full disclosure report to the authorizer identifying potential conflicts of interest,  
87 relationships with management organizations, and relationships with family members who are  
88 employed by the public charter school or have other business dealings with the school, the  
89 management organization of the school, or any other public charter school.

90 (4) Members of the governing board shall collectively possess expertise in leadership,  
91 curriculum and instruction, law, and finance.

92 (5) A member of the public charter school governing board shall be considered an officer  
93 of a school district under the provisions of §6-6-7 of this code, and shall be removed from office  
94 under the provisions of that section.

(6) The governing board shall be responsible for the operation of its public charter school, including, but not limited to, preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(7) The governing board shall comply with open governmental proceedings requirements set forth in §6-9A-1 et seq. of this code.

**§18-5G-4. Enrollment in a public charter school; recruitment and retention plans.**

(a) A public charter school may enroll any student residing in the state.

(b) If capacity is insufficient to enroll all students who wish to attend any specific grade level at a public charter school, the school shall select students through a randomized and transparent lottery: *Provided*, That the state board shall promulgate a rule to guide student application and lottery procedures for public charter schools.

(c) Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. An enrollment preference for returning students shall exclude those students from entering into a lottery.

(d) A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and at-risk students.

(e) A public charter school may give enrollment preference to children of a public charter school's governing board members and full-time employees, as long as they constitute no more than 10 percent of the school's total student population.

(f) Every charter school shall submit a recruitment and retention plan annually to its authorizer. The plan shall list deliberate, specific strategies the school will use to attract, enroll, and retain a student population that includes students who are, to the extent applicable:

(1) Limited English proficient;

(2) Special education;

20 (3) Low income;

21 (4) Below proficiency on the comprehensive statewide student assessment;

22 (5) At risk of dropping out of school;

23 (6) Have dropped out of school; or

24 (7) Any others who should be targeted to eliminate achievement gaps.

25 (g) A noncharter public school converting partially or entirely to a public charter school  
26 shall adopt and maintain a policy giving enrollment preference to students who reside within the  
27 former attendance area of that public school.

**§18-5G-5. Application to establish public charter school.**

1 (a) To establish a new public charter school or to convert an existing noncharter public  
2 school to a public charter school an applicant shall submit a charter application to an authorizer:  
3 Provided, That nothing prohibits a noncharter public school subject to consolidation from being  
4 converted to a public charter school upon application pursuant to the provisions of this article of  
5 this article.

6 (b) The application shall contain, at a minimum, the following information:

7 (1) A mission statement and a vision statement for the public charter school, including  
8 specialized academic focus, if any, to be promoted and advanced through the establishment of  
9 the public charter school;

10 (2) A detailed description of the public charter school's proposed program;

11 (3) The student achievement goals for the public charter school's program and the chosen  
12 methods of evaluating whether students have attained the skills and knowledge specified for  
13 those goals;

14 (4) The school's plan for using data derived from student evaluations and assessments,  
15 including the statewide summative assessment, to drive instruction and promote continued school  
16 improvement;

17 (5) An explanation of how the school's proposed program is likely to improve the

18 achievement of traditionally underperforming students in the local school district;

19 (6) The proposed governance structure of the school, including a list of members of the  
20 initial governing board, a draft of bylaws that include the description of the qualifications, terms,  
21 and methods of appointment or election of governing board members, and the organizational  
22 structure of the school that clearly presents lines of authority and reporting between the governing  
23 board, school administrators, staff, any related bodies such as advisory bodies or parent and  
24 teacher councils, and any external organizations that will play a role in managing the school;

25 (7) Plans and timelines for student enrollment, including policies and procedures for  
26 conducting transparent and random admission lotteries that are open to the public, and that are  
27 consistent with this article;

28 (8) A proposed five-year budget, including the start-up year and projections for four  
29 additional years with clearly stated assumptions;

30 (9) Proposed fiscal and internal control policies for the public charter school;

31 (10) Acknowledgement that the public charter school will participate in the state's  
32 accountability system;

33 (11) A proposed handbook that outlines the personnel policies of the public charter school,  
34 including the criteria to be used in the hiring of qualified teachers, school administrators, and other  
35 school employees, a description of staff responsibilities, and the school's plan to evaluate  
36 personnel on an annual basis;

37 (12) An explanation of proposed student discipline procedures, including disciplinary  
38 procedures for students with disabilities, which shall be consistent with the requirements of due  
39 process and with state and federal laws and regulations governing the placement of students with  
40 disabilities;

41 (13) A description of the facilities to be used by the public charter school, including the  
42 location of the school and how the facility supports the implementation of the school's program.  
43 The school shall obtain all required occupation and operation certificates and licenses prior to the



44 first instructional day for students;

45 (14) The proposed ages and grade levels to be served by the public charter school,  
46 including the planned minimum and maximum enrollment per grade per year;

47 (15) The school calendar and school day schedule, which shall meet the requirements of  
48 §18-5-45 of this code;

49 (16) Types and amounts of insurance coverage to be obtained by the public charter  
50 school, which:

51 (A) Shall include adequate insurance for liability, property loss, and the personal injury of  
52 students comparable to noncharter public schools within the local school district operated by the  
53 county board; and

54 (B) May include coverage from the Board of Risk and Insurance Management pursuant to  
55 §29-12-5a of this code;

56 (17) A description of the food services to be provided to students attending the school;

57 (18) Process and procedures to be followed in the case of the closure or dissolution of the  
58 public charter school, including provisions for the transfer of students and student records to the  
59 appropriate local school district and an assurance and agreement to payment of net assets or  
60 equity, after payment of debts as specified in §18-5G-8 of this code;

61 (19) A code of ethics for the school setting forth the standards of conduct expected of its  
62 governing board, officers, and employees;

63 (20) The public charter school's plan for successfully serving students with disabilities,  
64 students who are English language learners, bilingual students, and students who are  
65 academically behind and gifted, including, but not limited to, the school's plan for compliance with  
66 all applicable federal and state laws and regulations;

67 (21) A description of cocurricular and extracurricular programs to be offered by the public  
68 charter school and how they will be funded and delivered;

69 (22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan; and

(24) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation of any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

(d) Subject to legislative appropriation or funding from another source, the state board may offer a grant to a successful applicant as an incentive to apply for authorization to create a public charter school or convert a noncharter public school to a public charter school pursuant to this article. This authority includes grants to incentivize applications to authorize youth programs as charter schools pursuant to §18-5G-11(e) of this code.

**§18-5G-6. Authorizer duties and responsibilities.**

(a) An authorizer shall:

(1) Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;

(2) Approve new charter applications that meet the requirements of this section and §18-5G-5 of this code, demonstrate the ability to operate the school in an educationally and fiscally sound manner, and are likely to improve student achievement through the program detailed in the charter application;

(3) Decline to approve charter applications that fail to meet the requirements of §18-5G-5 of this code;

(4) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(5) Monitor the performance and compliance of public charter schools according to the terms of the charter contract;

(6) Determine whether each charter contract it authorizes merits renewal or revocation; and

(7) Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:

(A) Organizational capacity and infrastructure;

(B) Evaluation of applications;

(C) Ongoing public charter school oversight and evaluation; and

21 (D) Charter approval, renewal, and revocation decision-making.

22 (b) After an applicant submits a written application to establish a public charter school, the  
23 authorizer shall:

24 (1) Complete a thorough review process;

25 (2) Conduct an in-person interview with the applicant;

26 (3) Provide an opportunity in a public forum for local residents to provide input and learn  
27 about the charter application;

28 (4) Provide a detailed analysis of the application to the applicant or applicants;

29 (5) Allow an applicant a reasonable time to provide additional materials and amendments  
30 to its application to address any identified deficiencies; and

31 (6) Approve or deny a charter application based on established objective criteria or request  
32 additional information.

33 (c) In deciding to approve a charter application, the authorizer shall:

34 (1) Approve charter applications only to applicants that possess competence in all  
35 elements of the application requirements identified in this section and §18-5G-5 of this code;

36 (2) Base decisions on documented evidence collected through the application review  
37 process; and

38 (3) Follow charter-granting policies and practices that are transparent, based on merit,  
39 and avoid conflicts of interest.

40 (d) No later than 90 days following the filing of the charter application, the authorizer shall  
41 approve or deny the charter application. The authorizer shall provide its decision in writing,  
42 including an explanation stating the reasons for approval or denial of its decision during an open  
43 meeting. Any failure to act on a charter application within the time specified shall be deemed an  
44 approval by the authorizer.

45 (e) An authorizer's charter application approval shall be submitted to the West Virginia  
46 Department of Education.

47 (f) No public charter school may begin operations prior to July 1, 2020.

48 (g) Notwithstanding any provision of this code to the contrary, no civil liability shall attach  
49 to an authorizer or to any of its members or employees for any acts or omissions of the public  
50 charter school. Neither the county board of education nor the State of West Virginia shall be liable  
51 for the debts or financial obligations of a public charter school or any person or entity that operates  
52 a public charter school.

53 (h) To cover authorizer costs for overseeing public charter schools in accordance with this  
54 act, each public charter school shall remit to its respective authorizer an oversight fee. The  
55 oversight fee shall be drawn from and calculated as a uniform percentage of the per student  
56 operational funding allocated to each public charter school under §18-5G-11 of this code, not to  
57 exceed one percent of each public charter school's per-student funding in a single school year.  
58 The state board shall establish a statewide formula for authorizer funding, which shall apply  
59 uniformly to every authorizer in the state. The state board may establish a sliding scale for  
60 authorizing funding, with the funding percentage decreasing after the authorizer has achieved a  
61 certain threshold, such as after a certain number of schools have been authorized or after a  
62 certain number of students are enrolled in the authorizer's public charter schools. The state board  
63 shall establish a cap on the total amount of funding that an authorizer may withhold from a full-  
64 time charter school. The state board shall annually review the effectiveness of the state formula  
65 for authorizer funding and shall adjust the formula if necessary to maximize public benefit and  
66 strengthen the implementation of this act.

**§18-5G-7. Charter contract requirements; term of contract.**

1 (a) Within 90 days of the approval of a charter application, the governing board and the  
2 authorizer shall negotiate and enter into a charter contract.

3 (b) The charter contract shall address, in detail, the following items:

4 (1) The term of the contract: *Provided*, That the contract term shall be no longer than five  
5 years;

6 (2) Provisions to address each item required under §18-5G-5(b) and §18-5G-5(c) of this  
7 code;

8 (3) The rights and duties of the authorizer and the public charter school;

9 (4) The administrative relationship between the authorizer and the public charter school;

10 (5) The process the authorizer will use to provide ongoing oversight;

11 (6) The specific commitments of the authorizer relating to its obligations to oversee,  
12 monitor the progress of, and supervise the public charter school;

13 (7) The process and criteria the authorizer will use to annually monitor and evaluate the  
14 overall academic, operating, and fiscal conditions of the public charter school, including the  
15 process the authorizer will use to oversee the correction of any deficiencies found;

16 (8) The process for revision or amendment to the terms of the charter contract agreed to  
17 by the authorizer and the governing board;

18 (9) The process agreed to by the authorizer and the governing board that identifies how  
19 disputes between the authorizer and the board will be handled; and

20 (10) Any other terms and conditions agreed to by the authorizer and the governing board,  
21 including preopening conditions.

22 (c) The charter contract shall include provisions relating to the performance of the public  
23 charter school that set forth the academic and operational performance indicators, measures, and  
24 metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the  
25 performance provisions shall include indicators, measures, and metrics for:

26 (1) Student academic proficiency;

27 (2) Student academic growth;

28 (3) Achievement gaps in both student proficiency and student growth between student  
29 subgroups, including race, sex, socioeconomic status, and areas of exceptionality;

30 (4) Student attendance;

31 (5) Student suspensions;

32 (6) Student withdrawals;

33 (7) Recurrent enrollment from year to year;

34 (8) Governing board's performance and stewardship, including compliance with all  
35 applicable statutes and terms of charter contract; and

36 (9) Additional valid and reliable indicators requested by the public charter school.

37 (d) The authorizer shall be responsible for collecting and reporting to the state board all  
38 state-required assessment and achievement data for the public charter school.

39 (e) The charter contract shall be signed by the chair of the governing board and the  
40 president of the county board, presidents of the county boards, the president of the public  
41 institution of higher education, or the president of the state board, as applicable. A copy of the  
42 charter contract shall be provided to the State Superintendent of Schools.

43 (f) No public charter school may commence operations without a charter contract that  
44 meets the requirements of this section, has been properly executed, and has been approved by,  
45 as applicable, a county board, county boards, or the state board.

**§18-5G-8. Renewal or nonrenewal of charter contracts; revocation of charter contracts;**  
**rulemaking.**

1 (a) A charter contract may be renewed by the authorizer for a term of no more than five  
2 years. Authorizers may grant renewal with specific conditions for necessary improvements in the  
3 public charter school: *Provided*, That any specific condition imposed does not contradict the terms  
4 of this article.

5 (b) The State Board of Education shall promulgate a rule establishing the process for  
6 renewing or not renewing a charter contract. At a minimum, this rule shall include:

7 (1) A timeline for a governing board to submit an application for renewal to an authorizer;

8 (2) The information that must be included in an application for renewal;

9 (3) If the authorizer initially determines to deny a renewal application:

10 (A) Notification requirements to the governing board about the prospect of nonrenewal

and the reasons for possible closure of the public charter school;

(B) An opportunity and timeframe for the governing board to provide a response to the notice of the nonrenewal;

(C) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should be renewed; and

(D) An opportunity for a recorded public hearing, at the request of the governing board;

(4) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the nonrenewal of the charter contract;

(5) The information that must be included in the authorizer's final decision if it determines to deny a renewal application;

(6) A timeline for an authorizer to render a final decision on whether to revoke a charter contract;

(7) Approval of the authorizer's decision shall be adopted by the county board, county boards, institutional board of governors, or state board, as applicable, during an open meeting; and

(8) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of the renewal application.

(c) A charter contract shall not be renewed if the authorizer determines that the public charter school has:

(1) Committed a material violation of any of the terms, conditions, standards, or procedures required under this article or the charter contract, and has persistently failed to correct the violation after fair and specific notice from the authorizer;

(2) Failed to meet or make significant progress toward the program performance expectations identified in the charter contract;

(3) Failed to meet generally accepted standards of fiscal management, and has failed to



correct the violation after fair and specific notice from the authorizer; or

(4) Substantially violated any material provision of law from which the public charter school was not exempted and has failed to correct the violation after fair and specific notice from the authorizer.

(d) The state board shall promulgate a rule establishing the process for revoking a charter contract. At a minimum, the rule shall include:

(1) The information that must be included in the authorizer's initial decision to revoke the charter contract;

(2) Notification requirements to the governing board about the authorizer's initial decision to revoke a charter contract and the reasons for the revocation;

(3) An opportunity and timeframe for the governing board to provide a response to the authorizer's initial decision to revoke the charter contract;

(4) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should not be revoked;

(5) An opportunity for a recorded public hearing, at the request of the governing board;

(6) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract;

(7) The information that must be included in the authorizer's final decision if it determines to revoke the charter contract;

(8) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(9) Approval of the authorizer's decision shall be adopted during an open meeting; and

(10) A provision that the failure of the authorizer to render a final decision on whether or not to revoke a charter contract within the designated timeframes shall be deemed a determination to not revoke the charter contract.

63 (e) Notwithstanding the process set forth in subsection (d) of this section, an authorizer  
64 shall take immediate action to revoke a charter contract if the health and safety of students  
65 attending the public charter school are threatened.

66 (f) An authorizer shall develop a public charter school closure protocol or protocol for  
67 transitioning a charter school to noncharter public school status. The protocol shall ensure timely  
68 notification to parents, orderly transition of students and student records to new schools when  
69 applicable, and proper disposition of school funds, property, and assets. The protocol shall specify  
70 tasks, timelines, and responsible parties, including delineating the respective duties of the public  
71 charter school and the authorizer. If a public charter school closes or transitions to noncharter  
72 public school status for any reason, the authorizer shall oversee and work with the closing or  
73 transitioning school to ensure a smooth and orderly closure or transition and transition for students  
74 and parents, as guided by the closure or school transition protocol. If a public charter school is  
75 subject to closure or transition, an authorizer may remove at will at any time any or all of the  
76 members of the board of directors of the public charter school in connection with ensuring a  
77 smooth and orderly closure or transition. If the authorizer removes members of the board of  
78 directors such that the board of directors can no longer function, the authorizer shall be  
79 empowered to take any further necessary and proper acts connected with closure or transition of  
80 the public charter school in the name and interest of the public charter school.

**§18-5G-9. Appeal of authorizer's decision to West Virginia Board of Education.**

1 (a) A charter applicant or governing board of an existing public charter school may appeal  
2 a decision of an authorizer concerning the denial of a charter application, the nonrenewal of a  
3 charter contract, or the revocation of a charter contract to the state board within 30 days of the  
4 authorizer's decision: *Provided*, That if the state board is the authorizer that denies the charter  
5 application, fails to renew a charter contract, or revokes a charter contract, the state board's  
6 decision is final.

7 (b) The state board shall promulgate a rule pursuant to §29A-3B-1 *et seq.* establishing the

8 process and timeline for appeals filed pursuant to this section.

9 (c) The state board shall remand the authorizer's decision back to the authorizer for further  
10 proceedings if the substantial rights of the applicant have been prejudiced because the  
11 authorizer's findings, inferences, conclusions, or decisions are:

12 (1) In violation of constitutional or statutory provisions or state board policy;

13 (2) In excess of the statutory authority or jurisdiction of the authorizer;

14 (3) Made upon unlawful procedures;

15 (4) Affected by other error of law;

16 (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole  
17 record; or

18 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted  
19 exercise of discretion.

**§18-5G-10. Prohibitions.**

1 Notwithstanding any provision in this article that may be interpreted to the contrary, a  
2 public charter school shall not:

3 (1) Be home-school based; and

4 (2) Discriminate on any basis for which the noncharter public schools of this state may  
5 not discriminate: *Provided*, That nothing in this subsection may be construed to limit the formation  
6 of a public charter school that is dedicated to focusing education services on at-risk students,  
7 students with disabilities, and students who pose such severe disciplinary problems that they  
8 warrant a specific education program.

**§18-5G-11. State board rules relating to funding for charter school enrollment, other**  
**necessary provisions, prohibiting discrimination against employees, ensuring**  
**accountability, allowing schools for deaf and blind to apply for charter school**  
**status, and facilitating establishment of two charter school youth programs for**  
**school dropouts.**

1       (a) The state board shall promulgate a rule in accordance with §29A-3B-1 et seq. of this  
2 code setting forth requirements for public charter school funding. The rule shall include a  
3 requirement that 90 percent of the per pupil total basic foundation allowance follow the student to  
4 the public charter school, subject to the following:

5       (1) Notwithstanding §18-9A-1 et seq. of this code, the rule may provide for modifications  
6 to the calculations set forth in §18-9A-7 of this code regarding the allowance for student  
7 transportation and in §18-9A-9(1) of this code regarding the allowance for current expense for the  
8 purpose of making appropriate adjustments to those allowances to account for student  
9 transportation and current expense related funding a school district loses in situations where it  
10 pays money to a charter school pursuant to this subsection without a corresponding decrease in  
11 the county's transportation and current expense related expenditures;

12       (2) The rule shall designate which county school district is required to pay for a student  
13 attending a public charter school, and notwithstanding the terms in the definition of "net  
14 enrollment" in §18-9A-2 of this code, shall provide that the county school district paying for the  
15 student attending a public charter school have that student included in its net enrollment for the  
16 purposes of §18-9A-1 et seq. of this code; and

17       (3) The rule shall require the Department of Education to follow federal requirements in  
18 ensuring that federal funding follows the student to a public charter school.

19       (b) The state board shall promulgate a rule in accordance with §29A-3B-1 et seq. of this  
20 code to clarify, if necessary, the requirements of this article and address any unforeseen issues  
21 that might arise relating to the implementation of the requirements of this article. The rule also  
22 shall include a provision prohibiting a county board from discrimination against any district  
23 employee involved directly or indirectly with an application to establish a public charter school  
24 under this article.

25       (c) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this  
26 code, if necessary, for ensuring the accountability of public charter schools for meeting the

standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. If an authorizer fails to close a charter school that does not meet the standards, the authorizer shall appear before the state board to justify its decision. The state board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize charter schools.

(d) Notwithstanding §18-5G-2(2)(D), the state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code which allows the schools for the deaf and blind to apply to the state board for authorization to become a public charter school.

(e) The state board shall facilitate and promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code which facilitates the creation of at least two youth programs as charter schools for school dropouts that are modeled after the Mountaineer Challenge Academy in Preston County. The programs shall be in geographically diverse areas of the state with the goal of providing a program similar to that of the Mountaineer Challenge Academy that is closer in proximity to eligible students in the other parts of the state.

(f) All state board rules required to be promulgated by this article shall be promulgated on or before January 1, 2020.

**§18-5G-12. Access to public facilities.**

(a) A public charter school may request usage of public facilities from a local county board where the charter school is located. A local county board or other public entity shall make facilities available to the charter school that are either not used in whole or in part for classroom instruction at the time the charter school seeks to use or lease the public facility.

(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.

(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs

9 and remodeling. The county school board is responsible for any debt incurred or liens that are  
10 attached to the school building before the charter school leases the public facility.

**§18-5G-13. Reports.**

1 (a) An authorizer that has authorized a public charter school that is currently in operation  
2 shall submit to the state superintendent for presentation to the state board an annual report within  
3 60 days of the end of each school fiscal year summarizing:

4 (1) The performance of the public charter schools overseen by the authorizer, according  
5 to the performance measures and expectations specified in the charter contracts;

6 (2) The authorizing duties and functions provided by the authorizer during the previous  
7 academic year.

8 (b) One year after public charter schools have been in operation, and each year thereafter,  
9 the State Superintendent shall issue to the Governor, the Legislature, and the general public, a  
10 report on the state's public charter school program, drawing from the annual reports submitted by  
11 authorizers pursuant to this section, as well as any additional relevant data compiled by the State  
12 Superintendent up to the school year ending in the preceding calendar year. The report must  
13 include an assessment of the public charter school program's successes, challenges, and areas  
14 for improvement in meeting the purposes of this chapter as well as any suggested changes in  
15 state law or policy necessary to strengthen the public charter school program.

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-3. Definitions.**

1 As used in this article, unless the context clearly requires a different meaning:

2 "Accumulated contributions" means all deposits and all deductions from the gross salary  
3 of a contributor plus regular interest.

4 "Accumulated net benefit" means the aggregate amount of all benefits paid to or on behalf  
5 of a retired member.

6 "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value

7 computed upon the basis of the mortality table and interest rates as set and adopted by the  
8 retirement board in accordance with the provisions of this article: *Provided*, That when used in  
9 the context of compliance with the federal maximum benefit requirements of Section 415 of the  
10 Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and  
11 interest rates required to comply with those requirements.

12 "Annuities" means the annual retirement payments for life granted beneficiaries in  
13 accordance with this article.

14 "Average final salary" means the average of the five highest fiscal year salaries earned as  
15 a member within the last 15 fiscal years of total service credit, including military service as  
16 provided in this article, or if total service is less than 15 years, the average annual salary for the  
17 period on which contributions were made: *Provided*, That salaries for determining benefits during  
18 any determination period may not exceed the maximum compensation allowed as adjusted for  
19 cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal  
20 Revenue Code.

21 "Beneficiary" means the recipient of annuity payments made under the retirement system.

22 "Contributor" means a member of the retirement system who has an account in the  
23 Teachers Accumulation Fund.

24 "Deposit" means a voluntary payment to his or her account by a member.

25 "Employer" means the agency of and within the state which has employed or employs a  
26 member.

27 "Employer error" means an omission, misrepresentation, or violation of relevant provisions  
28 of the West Virginia Code, or of the West Virginia Code of State Regulations, or the relevant  
29 provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by  
30 the participating public employer that has resulted in an underpayment or overpayment of  
31 contributions required. A deliberate act contrary to the provisions of this section by a participating  
32 public employer does not constitute employer error.

“Employment term” means employment for at least 10 months, a month being defined as 20 employment days.

“Gross salary” means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member’s rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” means any person who has accumulated contributions standing to his or her credit in the State Teachers Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

“Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

“Members of the extension staff of the public schools” means every agricultural agent, boys and girls club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

“New entrant” means a teacher who is not a present teacher.

“Nonteaching member” means any person, except a teacher member, who is regularly



employed for full-time service by: (A) Any county board of education or educational services cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; ~~or~~ (E) a governing board, as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to §18-7B-7a: Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

“Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

“Present member” means a present teacher or nonteacher who is a member of the retirement system.

“Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

“Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was employed as a teacher and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

“Public schools” means all publicly supported schools, including colleges and universities in this state.

“Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

“Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the

Consolidated Public Retirement Board, 162 CSR 7.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or ceases covered employment under the system after having attained the age of 70 and one-half years.

“Retirant” means any member who commences an annuity payable by the retirement system.

“Retirement board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

“Retirement system” means the State Teachers Retirement System established by this article.

“Teacher member” means the following persons, if regularly employed for full-time service:

(A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education, or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and Rehabilitation,

the Division of Health, or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; (L) employees of an educational services cooperative who are performing services of an educational nature; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code.

“Total service” means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

## **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

“Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan may not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

“Annuity account” or “annuity” means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends, or other accumulations credited on behalf of the member.

“Compensation” means the full compensation actually received by members for service

whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: *Provided*, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, “compensation” has the meaning given it in ~~§18-7B-13d~~ §18-7B-13(d) of this code.

“Consolidated board” or “board” means the Consolidated Public Retirement Board created and established pursuant to §5-10D-1 *et seq.* of this code.

“Defined contribution system” or “system” means the Teachers’ Defined Contribution Retirement System created and established by this article.

“Employer” means the agency of and within the State of West Virginia which has employed or employs a member.

“Employer contribution” means an amount deposited into the member’s individual annuity account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds.

“Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days.

“Existing employer” means any employer who employed or employs a member of the system.

“Existing retirement system” means the State Teachers Retirement System established in §18-7A-1 *et seq.* of this code.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia;

(B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher's certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education, educational services cooperative, or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers' Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 et seq. of this code.

"Member contribution" means an amount reduced from the employee's regular pay periods, and deposited into the member's individual annuity account within the Teachers' Defined Contribution Retirement System.

"Permanent, total disability" means a mental or physical incapacity requiring absence from employment service for at least six months: *Provided*, That the incapacity is shown by an

64 examination by a physician or physicians selected by the board: *Provided, however,* That for  
65 employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage  
66 in substantial gainful activity by reason of any medically determinable physical or mental  
67 impairment that can be expected to result in death, or has lasted or can be expected to last for a  
68 continuous period of not less than 12 months and the incapacity is so severe that the member is  
69 likely to be permanently unable to perform the duties of the position the member occupied  
70 immediately prior to his or her disabling injury or illness.

71 “Plan year” means the 12-month period commencing on July 1 of any designated year  
72 and ending on the following June 30.

73 “Public schools” means all publicly supported schools, including normal schools, colleges,  
74 and universities in this state.

75 “Regularly employed for full-time service” means employment in a regular position or job  
76 throughout the employment term regardless of the number of hours worked or the method of pay.

77 “Required beginning date” means April 1 of the calendar year following the later of: (A)  
78 The calendar year in which the member attains age 70 and one-half years; or (B) the calendar  
79 year in which the member retires or otherwise ceases employment with a participating employer  
80 after having attained the age of 70 and one-half years.

81 “Retirement” means a member’s withdrawal from the active employment of a participating  
82 employer and completion of all conditions precedent to retirement.

83 “Year of employment service” means employment for at least 10 months, with a month  
84 being defined as 20 employment days: *Provided,* That no more than one year of service may be  
85 accumulated in any 12-month period.

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

1 (a) The county attendance director and the assistants shall diligently promote regular

2 school attendance. The director and assistants shall:

3 (1) Ascertain reasons for unexcused absences from school of students of compulsory  
4 school age and students who remain enrolled beyond the compulsory school age as defined  
5 under section one-a of this article;

6 (2) Take such steps as are, in their discretion, best calculated to encourage the attendance  
7 of students and to impart upon the parents and guardians the importance of attendance and the  
8 seriousness of failing to do so;

9 (3) For the purposes of this article, the following definitions apply:

10 (A) "Excused absence" includes:

11 (i) Personal illness or injury of the student;

12 (ii) Personal illness or injury of the student's parent, guardian, custodian, or family  
13 member: *Provided*, That the excuse must provide a reasonable explanation for why the student's  
14 absence was necessary and caused by the illness or injury in the family;

15 (iii) Medical or dental appointment with written excuse from physician or dentist;

16 (iv) Chronic medical condition or disability that impacts attendance;

17 (v) Participation in home or hospital instruction due to an illness or injury or other  
18 extraordinary circumstance that warrants home or hospital confinement;

19 (vi) Calamity, such as a fire or flood;

20 (vii) Death in the family;

21 (viii) School-approved or county-approved curricular or extra-curricular activities;

22 (ix) Judicial obligation or court appearance involving the student;

23 (x) Military requirement for students enlisted or enlisting in the military;

24 (xi) Personal or academic circumstances approved by the principal; and

25 (xii) Such other situations as may be further determined by the county board: *Provided*,  
26 That absences of students with disabilities shall be in accordance with the Individuals with  
27 Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in

compliance therewith; and

(B) "Unexcused absence" means any absence not specifically included in the definition of "excused absence"; and

(4) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, or assistant, or principal shall ~~serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required.~~ make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant or principal shall ~~serve written notice to the parent, guardian or custodian of the student that within five days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.~~ again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to



54 believe that an offense has been committed and that the accused has committed it, a summons  
55 or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the  
56 summons or to arrest persons charged with offenses against the state. More than one parent,  
57 guardian or custodian may be charged in a complaint. Initial service of a summons or warrant  
58 issued pursuant to the provisions of this section shall be attempted within ten calendar days of  
59 receipt of the summons or warrant and subsequent attempts at service shall continue until the  
60 summons or warrant is executed or until the end of the school term during which the complaint is  
61 made, whichever is later.

62 (e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the  
63 magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within  
64 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the  
65 assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the  
66 accused at least 10 days' advance notice of the date, time and place of the hearing.

67 (f) When any doubt exists as to the age of a student absent from school, the attendance  
68 director and assistants have authority to require a properly attested birth certificate or an affidavit  
69 from the parent, guardian or custodian of the student, stating age of the student. In the  
70 performance of his or her duties, the county attendance director and assistants have authority to  
71 take without warrant any student absent from school in violation of the provisions of this article  
72 and to place the student in the school in which he or she is or should be enrolled.

73 (g) The county attendance director and assistants shall devote such time as is required  
74 by section three of this article to the duties of attendance director in accordance with this section  
75 during the instructional term and at such other times as the duties of an attendance director are  
76 required. All attendance directors and assistants hired for more than 200 days may be assigned  
77 other duties determined by the superintendent during the period in excess of 200 days. The county  
78 attendance director is responsible under direction of the county superintendent for efficiently  
79 administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this code that set forth student absences that are excluded for accountability purposes. The absences that are excluded by rule shall include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided in subsection-a of this section, or if requested by the chief administrator, principal or assistant

106 principal; and

107 (9) Serve as the liaison for homeless children and youth.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-2. Definitions.**

1 For the purpose of this article:

2 (a) "State board" means the West Virginia Board of Education.

3 (b) "County board" or "board" means a county board of education.

4 (c) "Professional salaries" means the state legally mandated salaries of the professional  
5 educators as provided in §18A-4-1 *et seq.* of this code.

6 (d) "Professional educator" shall be synonymous with and shall have the same meaning  
7 as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

8 (e) "Professional instructional personnel" means a professional educator whose regular  
9 duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A  
10 professional educator having both instructional and administrative or other duties shall be  
11 included as professional instructional personnel for that ratio of the school day for which he or she  
12 is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance,  
13 or psychologist duties.

14 (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of  
15 this code who is assigned and serves on a regular full-time basis as a counselor or as a school  
16 nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for  
17 Registered Professional Nurses. Professional student support personnel shall also include  
18 professional personnel providing direct social and emotional support services to students, as well  
19 as professional personnel addressing chronic absenteeism. For all purposes except for the  
20 determination of the allowance for professional educators pursuant to §18-9A-4 of this code,  
21 professional student support personnel are professional educators.

22 (g) "Service personnel salaries" means the state legally mandated salaries for service

personnel as provided in §18A-4-8a of this code.

(h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: *Provided*, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in regular secondary vocational programs: ~~subject to the following~~ *Provided, That* (A) net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code; and

~~(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;~~

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

49 (4) The enrollment shall be modified to the equivalent of the instructional term and in  
50 accordance with the eligibility requirements and rules established by the state board; and

51 (5) For the purposes of determining the county's basic foundation program only, for any  
52 county whose net enrollment as determined under all other provisions of this definition is less than  
53 1,400, the net enrollment of the county shall be increased by an amount to be determined in  
54 accordance with the following:

55 (A) Divide the state's lowest county student population density by the county's actual  
56 student population density;

57 (B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision  
58 by the difference between 1,400 and the county's actual net enrollment;

59 (C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the  
60 county's actual net enrollment and increase that total amount by 10 percent; and

61 ~~(C) (D) If the increase in net enrollment as determined under this subdivision plus the~~  
62 ~~county's net enrollment as determined under all other provisions of this subsection is greater than~~  
63 ~~1,400, the increase in calculated net enrollment shall be reduced so that the total does not exceed~~  
64 ~~to 1,400; and~~

65 ~~(D) (E)~~ During the 2008-2009 interim period and every three interim periods thereafter, the  
66 Legislative Oversight Commission on Education Accountability shall review this subdivision to  
67 determine whether ~~or not~~ these provisions properly address the needs of counties with low  
68 enrollment and a sparse population density.

69 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
70 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
71 of "net enrollment", to the square miles of the county is less than five.

72 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
73 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
74 of "net enrollment", to the square miles of the county is equal to or greater than five but less than

10.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 20.

(n) "Levies for general current expense purposes" means ~~90~~ 85 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year.

**§18-9A-8. Foundation allowance for professional student support services.**

(a) The basic foundation allowance to the county for professional student support personnel shall be the amount of money determined in accordance with the following:

(1) The sum of the state minimum salaries, as determined in accordance with the

4 provisions of §18-4-1 *et seq.* of this code, for all state aid eligible school nurse and counselor  
5 positions in the county during the 2008 fiscal year which number shall be reduced in the same  
6 proportion as the number of professional educators allowed to be funded under §18-9A-4 of this  
7 code to the total number of professional educators employed that are state aid eligible. In  
8 performing this calculation, the numerator shall be the number of professional educators actually  
9 funded under §18-9A-4 of this code and the denominator shall be the total number of professional  
10 educators employed that are eligible to be funded under §18-9A-4 of this code;

11 (2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by  
12 one half percent;

13 (3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic  
14 foundation allowance to the county for professional student support personnel for the 2009 fiscal  
15 year;

16 (4) For fiscal years 2010, 2011, 2012, and 2013, the basic foundation allowance to the  
17 county for professional student support personnel increases by one-half percent per year over  
18 the allowance for the previous year; and

19 (5) For all fiscal years thereafter until 2019-2020 funding year, the basic foundation  
20 allowance to the county for professional student support personnel remains the same amount as  
21 in the 2013 fiscal year, plus any additional amount of funding necessary to cover the increases in  
22 the State Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year  
23 beginning July 1, 2018, and thereafter.

24 (b) The additional positions for counselors that may be created as a result of the one  
25 percent increase provided pursuant to this section shall be assigned to schools where the  
26 counselor can:

27 (1) Enhance student achievement;

28 (2) Provide early intervention for students in grades prekindergarten through five; and

29 (3) Enhance student development and career readiness.

(c) Effective for the 2019-2020 funding year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay the state minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for four and seventy hundredths state aid eligible professional student support personnel positions to each 1,000 students in net enrollment;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional student support personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(5) For the 2020 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

**§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.**

The total allowance for other current expense and substitute employees is the sum of the following:

(1) For current expense:



4 (A) The non-salary related expenditures for operations and maintenance, exclusive of  
5 expenditures reported in special revenue funds, for the latest available school year, in each  
6 county, divided by the total square footage of school buildings in each county is used to calculate  
7 a state average expenditure per square foot for operations and maintenance;

8 (B) The total square footage of school buildings in each county divided by each county's  
9 net enrollment for school aid purposes is used to calculate a state average square footage per  
10 student;

11 (C) Each county's net enrollment for school aid purposes multiplied by the state average  
12 expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this  
13 subdivision and multiplied by the state average square footage per student as calculated in  
14 paragraph (B) of this subdivision is that county's state average costs per square footage per  
15 student for operations and maintenance;

16 (D) Where two or more counties join together in support of a vocational or comprehensive  
17 high school or any other program or service, the allowance for current expense may be prorated  
18 among the participating counties by adjusting the net enrollment for school aid purposes utilized  
19 in the calculation by the number of students enrolled therein for each county; and

20 (E) Each county's allowance for current expense is 70.25% of the county's state average  
21 costs per square footage per student for operations and maintenance amount as calculated in  
22 paragraph (C) of this subdivision; Provided, That effective for the 2019-2020 funding year, each  
23 county's allowance for current expense is 71.25 percent of the county's state average costs per  
24 square footage per student for operations and maintenance amount as calculated in paragraph  
25 (C) of this subdivision; plus

26 (2) For professional educator substitutes or current expense, two and five-tenths percent  
27 of the computed state allocation for professional educators and professional student support  
28 personnel as determined in §18-9A-4 and §18-9A-8 of this code. Distribution to the counties is  
29 made proportional to the number of professional educators and professional student support

personnel authorized for the county in compliance with §18-9A-4 and §18-9A-8 of this code; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in §18-9A-5 of this code.

Distribution to the counties is made proportional to the number of service personnel authorized for the county in compliance with §18-9A-5 of this code; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 per professional instructional personnel employed at the school. "Faculty Senate" means a faculty senate created pursuant to §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of §18-5A-5 of this code and may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

**§18-9A-19. State Aid Block Grant Funding.**

Beginning for the school year 2019-2020 and thereafter, each county board shall receive its allocated state aid share of the county's basic foundation program as calculated pursuant to this article in the form of block grants. Notwithstanding other provisions within this article, all funds distributed to a county board in a block grant shall be exempt from expenditure requirements and limitations contained within this article and a recipient county board may expend such funds in any authorized and allowable manner the county board deems appropriate: *Provided, That all expenditures shall be consistent with the provisions of all other articles of this code.*

**ARTICLE 9B. STATE BOARD OF SCHOOL FINANCE.**

**§18-9B-22. Searchable budget database and website.**

1 (a) Effective July 1, 2020, the state superintendent shall provide the State Auditor with the  
2 required data for use by the searchable budget data website: *Provided*, That the state  
3 superintendent shall not be required to violate the Family Educational Rights and Privacy Act in  
4 providing such data. The data shall also contain the required information for the previous three  
5 fiscal years provided such data is available.

6 (b) The required data shall include for use by the searchable budget database website the  
7 following content:

8 (1) The name and principal location or residence of the entity or recipients of funds:  
9 *Provided*, That employee addresses shall not be made public or otherwise displayed on the  
10 budget data website;

11 (2) The name of the person or entity requesting the funds;

12 (3) The amount of funds expended;

13 (4) The funding or expending agency;

14 (5) The funding source of the revenue expended;

15 (6) The budget program or activity of the expenditure;

16 (7) A descriptive purpose for the funding action or expenditure;

17 (8) Any state audit or report relating to the entity or recipient of funds or the budget program  
18 or agency; and

19 (9) Any other relevant information specified by the Legislature.

20 (c) The information shall be updated for each fiscal year no later than 30 days following  
21 the end of the fiscal year. In addition, the State Auditor shall update the searchable budget  
22 database website as new data becomes available. The State Auditor shall provide guidance to  
23 the state superintendent to ensure compliance with this section.

24 (d) Nothing in this subsection is intended to cause a substantial modification to the West  
25 Virginia Education Information System.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

**§18-20-5. Powers and duties of state superintendent.**

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services for exceptional children.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, ~~formula~~ and formulas for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~An~~ A separate appropriation shall be made to the Department of Education to be ~~distributed~~ disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 et seq. of this code to support children assist them with serving exceptional children with high cost/high acuity special needs that exceed the capacity of county to provide with funds available. Each county board and public charter school shall apply to the state superintendent for receipt of to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed disbursed to county boards and public charter schools for this purpose before any of the state appropriation

26 is ~~distributed~~ disbursed. The state board shall promulgate a rule in accordance with the provisions  
27 of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to  
28 ~~distributing~~ disbursing the funds to the county boards and public charter schools. The rule at least  
29 shall include a definition for “children with high acuity needs”.

30 (4) Receiving from county boards ~~of education~~ and public charter schools, their  
31 applications, annual reports and claims for reimbursement from such moneys as are appropriated  
32 by the Legislature, auditing such claims, and preparing vouchers to reimburse said counties the  
33 amounts reimbursable to them.

34 (5) Assuring that all exceptional children in the state, including children in mental health  
35 facilities, residential institutions, private schools and correctional facilities as provided in §18-2-  
36 13f of this code receive an education in accordance with state and federal laws: *Provided*, That  
37 the state superintendent shall also assure that adults in correctional facilities and regional jails  
38 receive an education to the extent funds are provided therefor.

39 (6) Performing other duties and assuming other responsibilities in connection with this  
40 program as needed.

41 ~~(7) Receive the county plan for integrated classroom submitted by the county boards of~~  
42 ~~education and submit a state plan, approved by the State Board of Education, to the Legislative~~  
43 ~~Oversight Commission on Education Accountability no later than December 1, 1995.~~

44 (b) Nothing contained in this section shall be construed to prevent any county board of  
45 education from establishing and maintaining special schools, classes, regular class programs,  
46 home-teaching or visiting-teacher services for exceptional children out of funds available from  
47 local revenue.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

#### §18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year: Provided, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

#### STATE MINIMUM SALARY SCHEDULE I

Years	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doc-
Exp	Class	Class	Class		+ 15		+ 15	+ 30	+ 45	torate
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218
3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499
5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,761	36,727	37,488	39,256	40,017	40,777	41,538	42,573

9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611
11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204
16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,776	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945
29	39,696	40,385	40,651	47,618	48,378	50,146	50,907	51,668	52,428	53,463
30	40,024	40,713	40,979	48,136	48,897	50,665	51,425	52,186	52,947	53,982
31	40,353	41,041	41,307	48,655	49,416	51,183	51,944	52,705	53,465	54,500
32	40,681	41,369	41,635	49,173	49,934	51,702	52,463	53,223	53,984	55,019
33	41,009	41,697	41,963	49,692	50,453	52,220	52,981	53,742	54,503	55,538

34 41,337 42,025 42,291 50,210 50,971 52,739 53,500 54,260 55,021 56,056

35 41,665 42,353 42,619 50,729 51,490 53,257 54,018 54,779 55,540 56,575

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STATE MINIMUM SALARY SCHEDULE II

<u>Years</u>	<u>4<sup>th</sup></u>	<u>3<sup>rd</sup></u>	<u>2<sup>nd</sup></u>	<u>A.B.</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>MA.</u>	<u>M.A.</u>	<u>Doc-</u>
<u>Exp.</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>		<u>+15</u>		<u>+15</u>	<u>+30</u>	<u>+45</u>	<u>torate</u>
<u>0</u>	<u>32,057</u>	<u>32,746</u>	<u>33,012</u>	<u>34,455</u>	<u>35,216</u>	<u>36,983</u>	<u>37,744</u>	<u>38,505</u>	<u>39,266</u>	<u>40,301</u>
<u>1</u>	<u>32,385</u>	<u>33,074</u>	<u>33,340</u>	<u>34,973</u>	<u>35,734</u>	<u>37,502</u>	<u>38,263</u>	<u>39,023</u>	<u>39,784</u>	<u>40,819</u>
<u>2</u>	<u>32,714</u>	<u>33,402</u>	<u>33,668</u>	<u>35,492</u>	<u>36,253</u>	<u>38,020</u>	<u>38,781</u>	<u>39,542</u>	<u>40,303</u>	<u>41,338</u>
<u>3</u>	<u>33,042</u>	<u>33,730</u>	<u>33,996</u>	<u>36,011</u>	<u>36,771</u>	<u>38,539</u>	<u>39,300</u>	<u>40,060</u>	<u>40,821</u>	<u>41,856</u>
<u>4</u>	<u>33,614</u>	<u>34,302</u>	<u>34,568</u>	<u>36,773</u>	<u>37,534</u>	<u>39,302</u>	<u>40,063</u>	<u>40,823</u>	<u>41,584</u>	<u>42,619</u>
<u>5</u>	<u>33,942</u>	<u>34,630</u>	<u>34,896</u>	<u>37,292</u>	<u>38,053</u>	<u>39,820</u>	<u>40,581</u>	<u>41,342</u>	<u>42,103</u>	<u>43,138</u>
<u>6</u>	<u>34,270</u>	<u>34,958</u>	<u>35,224</u>	<u>37,810</u>	<u>38,571</u>	<u>40,339</u>	<u>41,100</u>	<u>41,860</u>	<u>42,621</u>	<u>43,656</u>
<u>7</u>	<u>34,598</u>	<u>35,287</u>	<u>35,552</u>	<u>38,329</u>	<u>39,090</u>	<u>40,857</u>	<u>41,618</u>	<u>42,379</u>	<u>43,140</u>	<u>44,175</u>
<u>8</u>	<u>34,926</u>	<u>35,615</u>	<u>35,881</u>	<u>38,847</u>	<u>39,608</u>	<u>41,376</u>	<u>42,137</u>	<u>42,897</u>	<u>43,658</u>	<u>44,693</u>
<u>9</u>	<u>35,254</u>	<u>35,943</u>	<u>36,209</u>	<u>39,366</u>	<u>40,127</u>	<u>41,894</u>	<u>42,655</u>	<u>43,416</u>	<u>44,177</u>	<u>45,212</u>
<u>10</u>	<u>35,583</u>	<u>36,271</u>	<u>36,537</u>	<u>39,886</u>	<u>40,646</u>	<u>42,414</u>	<u>43,175</u>	<u>43,936</u>	<u>44,696</u>	<u>45,731</u>
<u>11</u>	<u>35,911</u>	<u>36,599</u>	<u>36,865</u>	<u>40,404</u>	<u>41,165</u>	<u>42,933</u>	<u>43,693</u>	<u>44,454</u>	<u>45,215</u>	<u>46,250</u>
<u>12</u>	<u>36,239</u>	<u>36,927</u>	<u>37,193</u>	<u>40,923</u>	<u>41,683</u>	<u>43,451</u>	<u>44,212</u>	<u>44,973</u>	<u>45,733</u>	<u>46,768</u>
<u>13</u>	<u>36,567</u>	<u>37,255</u>	<u>37,521</u>	<u>41,441</u>	<u>42,202</u>	<u>43,970</u>	<u>44,730</u>	<u>45,491</u>	<u>46,252</u>	<u>47,287</u>
<u>14</u>	<u>36,895</u>	<u>37,583</u>	<u>37,849</u>	<u>41,960</u>	<u>42,720</u>	<u>44,488</u>	<u>45,249</u>	<u>46,010</u>	<u>46,770</u>	<u>47,805</u>
<u>15</u>	<u>37,223</u>	<u>37,911</u>	<u>38,177</u>	<u>42,478</u>	<u>43,239</u>	<u>45,007</u>	<u>45,767</u>	<u>46,528</u>	<u>47,289</u>	<u>48,324</u>
<u>16</u>	<u>37,551</u>	<u>38,239</u>	<u>38,505</u>	<u>42,997</u>	<u>43,757</u>	<u>45,525</u>	<u>46,286</u>	<u>47,047</u>	<u>47,807</u>	<u>48,842</u>
<u>17</u>	<u>37,879</u>	<u>38,568</u>	<u>38,833</u>	<u>43,515</u>	<u>44,276</u>	<u>46,044</u>	<u>46,805</u>	<u>47,565</u>	<u>48,326</u>	<u>49,361</u>
<u>18</u>	<u>38,207</u>	<u>38,896</u>	<u>39,162</u>	<u>44,034</u>	<u>44,795</u>	<u>46,562</u>	<u>47,323</u>	<u>48,084</u>	<u>48,845</u>	<u>49,880</u>



<u>19</u>	<u>38,535</u>	<u>39,224</u>	<u>39,490</u>	<u>44,552</u>	<u>45,313</u>	<u>47,081</u>	<u>47,842</u>	<u>48,602</u>	<u>49,363</u>	<u>50,398</u>
<u>20</u>	<u>38,863</u>	<u>39,552</u>	<u>39,818</u>	<u>45,071</u>	<u>45,832</u>	<u>47,599</u>	<u>48,360</u>	<u>49,121</u>	<u>49,882</u>	<u>50,917</u>
<u>21</u>	<u>39,192</u>	<u>39,880</u>	<u>40,146</u>	<u>45,589</u>	<u>46,350</u>	<u>48,118</u>	<u>48,879</u>	<u>49,639</u>	<u>50,400</u>	<u>51,435</u>
<u>22</u>	<u>39,520</u>	<u>40,208</u>	<u>40,474</u>	<u>46,108</u>	<u>46,869</u>	<u>48,636</u>	<u>49,397</u>	<u>50,158</u>	<u>50,919</u>	<u>51,954</u>
<u>23</u>	<u>39,848</u>	<u>40,536</u>	<u>40,802</u>	<u>46,627</u>	<u>47,387</u>	<u>49,155</u>	<u>49,916</u>	<u>50,676</u>	<u>51,437</u>	<u>52,472</u>
<u>24</u>	<u>40,176</u>	<u>40,864</u>	<u>41,130</u>	<u>47,145</u>	<u>47,906</u>	<u>49,674</u>	<u>50,434</u>	<u>51,195</u>	<u>51,956</u>	<u>52,991</u>
<u>25</u>	<u>40,504</u>	<u>41,192</u>	<u>41,458</u>	<u>47,664</u>	<u>48,424</u>	<u>50,192</u>	<u>50,953</u>	<u>51,714</u>	<u>52,474</u>	<u>53,509</u>
<u>26</u>	<u>40,832</u>	<u>41,520</u>	<u>41,786</u>	<u>48,182</u>	<u>48,943</u>	<u>50,711</u>	<u>51,471</u>	<u>52,232</u>	<u>52,993</u>	<u>54,028</u>
<u>27</u>	<u>41,160</u>	<u>41,848</u>	<u>42,114</u>	<u>48,701</u>	<u>49,461</u>	<u>51,229</u>	<u>51,990</u>	<u>52,751</u>	<u>53,511</u>	<u>54,546</u>
<u>28</u>	<u>41,488</u>	<u>42,177</u>	<u>42,442</u>	<u>49,219</u>	<u>49,980</u>	<u>51,748</u>	<u>52,508</u>	<u>53,269</u>	<u>54,030</u>	<u>55,065</u>
<u>29</u>	<u>41,816</u>	<u>42,505</u>	<u>42,771</u>	<u>49,738</u>	<u>50,498</u>	<u>52,266</u>	<u>53,027</u>	<u>53,788</u>	<u>54,548</u>	<u>55,583</u>
<u>30</u>	<u>42,144</u>	<u>42,833</u>	<u>43,099</u>	<u>50,256</u>	<u>51,017</u>	<u>52,785</u>	<u>53,545</u>	<u>54,306</u>	<u>55,067</u>	<u>56,102</u>
<u>31</u>	<u>42,473</u>	<u>43,161</u>	<u>43,427</u>	<u>50,775</u>	<u>51,536</u>	<u>53,303</u>	<u>54,064</u>	<u>54,825</u>	<u>55,585</u>	<u>56,620</u>
<u>32</u>	<u>42,801</u>	<u>43,489</u>	<u>43,755</u>	<u>51,293</u>	<u>52,054</u>	<u>53,822</u>	<u>54,583</u>	<u>55,343</u>	<u>56,104</u>	<u>57,139</u>
<u>33</u>	<u>43,129</u>	<u>43,817</u>	<u>44,083</u>	<u>51,812</u>	<u>52,573</u>	<u>54,340</u>	<u>55,101</u>	<u>55,862</u>	<u>56,623</u>	<u>57,658</u>
<u>34</u>	<u>43,457</u>	<u>44,145</u>	<u>44,411</u>	<u>52,330</u>	<u>53,091</u>	<u>54,859</u>	<u>55,620</u>	<u>56,380</u>	<u>57,141</u>	<u>58,176</u>
<u>35</u>	<u>43,785</u>	<u>44,473</u>	<u>44,739</u>	<u>52,849</u>	<u>53,610</u>	<u>55,377</u>	<u>56,138</u>	<u>56,899</u>	<u>57,660</u>	<u>58,695</u>

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14 (c) Six hundred dollars shall be paid annually to each classroom teacher who has at least  
15 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed  
16 in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments;  
17 and (iii) shall be considered a part of the state minimum salaries for teachers.

18 (d) Effective July 1, 2019, each classroom teacher providing math instruction in the  
19 teacher's certified area of study for at least 60 percent of the time the teacher is providing  
20 instruction to students shall be considered to have three additional years of experience only for  
21 the purposes of the salary schedule set forth in subsection (b) of this section.

(e) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in §18A-4-2(b) of this code.

~~(d) (f) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code,~~ In accordance with §18A-4-5 of this code, each teacher shall be paid ~~an equity~~ the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For “4th Class” at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For “3rd Class” at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For “2nd Class” at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For “A. B.” at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For “A. B. + 15” at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For “M. A.” at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M. A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M. A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M. A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For "Doctorate" at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

**§18A-4-5. Salary equity among the counties; state salary supplement.**

~~(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated using the average of the professional educator salary schedules, degree classifications B. A. through doctorate and the years of experience provided in the most recent state minimum salary schedule for teachers, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades A through H and the years of experience provided in the most recent state minimum pay scale pay grade for service personnel, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties.~~

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, et seq. of this code. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county's specific

19 characteristics, and ensures that all counties are provided equitable funding.

20 (b) The Legislature further finds that the purpose of the public school support program is  
21 not to deter counties from growing economically or from using county resources in a manner that  
22 best meets their specific educational needs and the desires of their citizens. To that end, counties  
23 must have the discretion and flexibility to use local county funds, not otherwise factored into the  
24 public school support program, to provide the best education possible to their students, including,  
25 but not limited to, providing salary supplements to teachers.

26 ~~(b)(c) To meet the objective of salary equity among the counties, as defined in subsection~~  
27 ~~(a) of this section, on and after July 1, 1984, subject~~ Subject ~~to available state appropriations and~~  
28 ~~the conditions set forth herein, each teacher and school service personnel shall receive an equity~~  
29 ~~a supplement amount as specified in sections two and eight-a, respectively, of this article in~~  
30 ~~addition to the amount from the state minimum salary schedules provided in those sections.~~ State  
31 funds for this purpose shall be paid within the West Virginia public school support plan in  
32 accordance with §18-9A-1 et seq. of this code. The amount allocated for this supplement shall be  
33 apportioned between teachers and school service personnel in direct proportion to that amount  
34 necessary to support the professional salaries and service personnel salaries statewide under  
35 §18-9A-4, §18-9A-5, and §18-9A-8 of this code.

36 ~~(c) State funds for this purpose shall be paid within the West Virginia public school support~~  
37 ~~plan in accordance with article nine-a, chapter eighteen of this code. The amount allocated for~~  
38 ~~salary equity shall be apportioned between teachers and school service personnel in direct~~  
39 ~~proportion to that amount necessary to support the professional salaries and service personnel~~  
40 ~~salaries statewide under sections four, five and eight, article nine-a, chapter eighteen of this code.~~  
41 ~~In the event the Department of Education determines that the objective of salary equity among~~  
42 ~~the counties has not been met, it shall include in its budget request for the public school support~~  
43 ~~plan for the next school year a request for funding sufficient to meet the objective of salary equity~~  
44 ~~through an across-the-board increase in the equity supplement amount of the affected class of~~

45 ~~employees.~~

46 (d) Pursuant to this section, each teacher and service person shall receive from state  
47 funds the equity supplement amount indicated in §18A-4-2(c) and §18A-4-8a(f) of this code, as  
48 applicable, reduced by any amount provided by the county as a salary supplement for teachers  
49 and school service personnel on January 1, 1984.

50 (e) The amount received pursuant to this section shall not be decreased as a result of any  
51 county supplement increase instituted after January 1, 1984: *Provided*, That any amount received  
52 pursuant to this section may be reduced proportionately based upon the amount of funds  
53 appropriated for this purpose. No county may reduce any salary supplement that was in effect on  
54 January 1, 1984, except as permitted by §18-4-5a and §18-4-5b of this code.

55 (f) The amendments to this section during the 2019 First Extraordinary Session of the  
56 Legislature shall be effective for school years beginning on or after July 1, 2019, and the  
57 provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the  
58 Legislature remain in effect for school years beginning prior to July 1, 2019.

**§18A-4-5a. County salary supplements for teachers.**

1 (a) County boards of education in fixing the salaries of teachers shall use at least the state  
2 minimum salaries established under the provisions of this article. The board may establish salary  
3 schedules which shall be in excess of the state minimums fixed by this article, such county  
4 schedules to be uniform throughout the county as to the classification of training, experience,  
5 responsibility and other requirements subject to the following:

6 (1) Counties may fix higher salaries for teachers placed in special instructional  
7 assignments, for those assigned to or employed for duties other than regular instructional duties,  
8 and for teachers of one-teacher schools; ~~and they~~

9 (2) Counties may provide additional compensation for any teacher assigned duties in  
10 addition to the teacher's regular instructional duties wherein such noninstructional duties are not  
11 a part of the scheduled hours of the regular school day. ~~Uniformity also shall apply to such~~

~~additional salary increments or compensation for all persons performing like assignments and duties within the county: *Provided, That in*~~

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules authorized in subsection (a) of this section,  
~~no county shall~~ a county may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the State Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-7a. Employment, promotion, and transfer of professional personnel; ~~seniority~~  
qualifications.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the ~~applicant's~~ applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting

from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an ~~applicants~~ applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of §29A-3B-1 *et seq.* of this code to implement and interpret the provisions of this section. The rule may provide for a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: *Provided*, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed



professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of 133 days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(i) Guidance counselors and all other professional employees, as defined in §18A-1-1 of this code, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this ~~paragraph~~ subsection, employment as principal, supervisor or central office administrator, as defined in §18A-1-1 of this code, shall be considered one area of employment.

(j) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. ~~A random selection system established by the employees and approved by the county board shall be used to determine the priority if two or more employees accumulate identical seniority: *Provided*, That when two or more principals have accumulated identical seniority~~ All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (k) through (s), inclusive, of this section, the word "qualifications" means the qualifications set forth in county board policy and only means qualifications set forth in

subsection (b) of this section to the extent those qualifications are set forth in county board policy:

Provided, That in defining the word "qualifications" in its policy, the county board:

(1) Shall consider including the following criteria:

(A) Seniority;

(B) Appropriate certification, licensure, or both;

(C) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(D) The amount of course work, degree level, or both in the relevant field and degree level generally;

(E) Academic achievement;

(F) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(G) Specialized training relevant to performing the duties of the job;

(H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(I) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(J) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(K) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties;

(2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent they are included in the county board policy only after considering personnel whose last

performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as applicable, is less than satisfactory; and

(3) May not include salary as one of the criteria in the definition.

(k) Whenever a county board is required to reduce the number of professional personnel in its employment, the employee ~~with the least amount of seniority who is least qualified, as set forth in county board policy,~~ shall be properly notified and released from employment pursuant to ~~the provisions of §18A-2-2 of this code. The provisions of this subsection are~~ This subsection is subject to the following:

(1) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

(2) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both: ~~if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both~~ Provided, That the employee is the most qualified person for that position;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the ~~employee's seniority~~ employee's qualifications are greater than the ~~seniority~~ qualifications of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the

employee ~~with the least seniority~~ who is least qualified in any of those areas of certification, licensure or both; and

(5) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and ~~higher seniority~~ has greater qualifications, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(l) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in §18A-1-1 of this code shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board shall may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both; ~~and~~ along with the days in the period of employment.

(m) All professional personnel whose ~~seniority~~ lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county board during a reduction in workforce shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of ~~seniority~~ qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater ~~seniority, are qualified~~ qualifications apply for and accept the position.

~~(n) Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both.~~ The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.

(o) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may ~~post~~ repost an opening for a classroom teacher ~~one additional time~~ after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated

179 in the job description and directly related to the performance of the job;

180 (D) Postings for vacancies made pursuant to this section shall be written so as to ensure  
181 that the largest possible pool of qualified applicants may apply; and

182 (E) Job postings may not require criteria which are not necessary for the successful  
183 performance of the job and may not be written with the intent to favor a specific applicant;

184 (2) No vacancy may be filled until after the five-day minimum posting period of the most  
185 recent posted notice of the vacancy;

186 (3) If one or more applicants under all the postings for a vacancy meets the qualifications  
187 listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board  
188 within 30 working days of the end of the first posting period;

189 (4) A position held by a teacher who is certified, licensed or both, who has been issued a  
190 permit for full-time employment and is working toward certification in the permit area shall not be  
191 subject to posting if the certificate is awarded within five years; and

192 (5) Nothing provided herein may prevent the county board of education from eliminating a  
193 position due to lack of need.

194 (p) Notwithstanding any other provision of the code to the contrary, where the total number  
195 of classroom teaching positions in an elementary school does not increase from one school year  
196 to the next, but there exists in that school a need to realign the number of teachers in one or more  
197 grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels  
198 for which they are certified without that position being posted: *Provided*, That the employee and  
199 the county board mutually agree to the reassignment.

200 (q) Reductions in classroom teaching positions in elementary schools shall be determined  
201 pursuant to the considerations set forth in county board policy and processed as follows:

202 (1) When the total number of classroom teaching positions in an elementary school needs  
203 to be reduced, the reduction shall be made on the basis of ~~seniority~~ qualifications with the least  
204 ~~senior~~ qualified classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least ~~senior~~ qualified employee in the school is not in that grade level, the least ~~senior~~ qualified classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least ~~senior~~ qualified classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

(r) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

~~(s) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.~~

~~(t)~~(s) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(t) All personnel in a public charter school shall continue to accrue seniority in the same manner that they would accrue seniority if employed in a noncharter public school in the county for the purpose of employment in noncharter public schools.

**§18A-4-8a. Service personnel minimum monthly salaries.**

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, ~~and continuing thereafter~~, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours

a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule I and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule I set forth in this subdivision: Provided, That for school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule II and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule II set forth in this subdivision.

#### STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE I

Years Exp.	PAY GRADE							
	A	B	C	D	E	F	G	H
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402
10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435
11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500



13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533
14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330
38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

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STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE IIYearsExp.PAY GRADE

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1,885</u>	<u>1,906</u>	<u>1,948</u>	<u>2,001</u>	<u>2,054</u>	<u>2,117</u>	<u>2,149</u>	<u>2,222</u>
<u>1</u>	<u>1,917</u>	<u>1,939</u>	<u>1,980</u>	<u>2,033</u>	<u>2,087</u>	<u>2,150</u>	<u>2,181</u>	<u>2,255</u>
<u>2</u>	<u>1,950</u>	<u>1,971</u>	<u>2,013</u>	<u>2,066</u>	<u>2,119</u>	<u>2,182</u>	<u>2,214</u>	<u>2,287</u>
<u>3</u>	<u>1,982</u>	<u>2,004</u>	<u>2,046</u>	<u>2,099</u>	<u>2,152</u>	<u>2,215</u>	<u>2,247</u>	<u>2,320</u>
<u>4</u>	<u>2,015</u>	<u>2,037</u>	<u>2,078</u>	<u>2,131</u>	<u>2,184</u>	<u>2,248</u>	<u>2,279</u>	<u>2,354</u>
<u>5</u>	<u>2,048</u>	<u>2,069</u>	<u>2,111</u>	<u>2,164</u>	<u>2,217</u>	<u>2,280</u>	<u>2,312</u>	<u>2,386</u>
<u>6</u>	<u>2,080</u>	<u>2,102</u>	<u>2,145</u>	<u>2,197</u>	<u>2,250</u>	<u>2,313</u>	<u>2,345</u>	<u>2,419</u>
<u>7</u>	<u>2,114</u>	<u>2,134</u>	<u>2,177</u>	<u>2,229</u>	<u>2,282</u>	<u>2,346</u>	<u>2,377</u>	<u>2,452</u>
<u>8</u>	<u>2,147</u>	<u>2,167</u>	<u>2,210</u>	<u>2,262</u>	<u>2,315</u>	<u>2,378</u>	<u>2,410</u>	<u>2,484</u>
<u>9</u>	<u>2,179</u>	<u>2,200</u>	<u>2,243</u>	<u>2,296</u>	<u>2,348</u>	<u>2,411</u>	<u>2,442</u>	<u>2,517</u>
<u>10</u>	<u>2,212</u>	<u>2,233</u>	<u>2,275</u>	<u>2,328</u>	<u>2,380</u>	<u>2,445</u>	<u>2,476</u>	<u>2,550</u>
<u>11</u>	<u>2,245</u>	<u>2,266</u>	<u>2,308</u>	<u>2,361</u>	<u>2,413</u>	<u>2,477</u>	<u>2,509</u>	<u>2,582</u>
<u>12</u>	<u>2,277</u>	<u>2,299</u>	<u>2,340</u>	<u>2,394</u>	<u>2,447</u>	<u>2,510</u>	<u>2,541</u>	<u>2,615</u>
<u>13</u>	<u>2,310</u>	<u>2,331</u>	<u>2,373</u>	<u>2,426</u>	<u>2,479</u>	<u>2,542</u>	<u>2,574</u>	<u>2,648</u>
<u>14</u>	<u>2,343</u>	<u>2,364</u>	<u>2,406</u>	<u>2,459</u>	<u>2,512</u>	<u>2,575</u>	<u>2,607</u>	<u>2,680</u>
<u>15</u>	<u>2,375</u>	<u>2,397</u>	<u>2,438</u>	<u>2,491</u>	<u>2,544</u>	<u>2,608</u>	<u>2,639</u>	<u>2,713</u>
<u>16</u>	<u>2,408</u>	<u>2,429</u>	<u>2,471</u>	<u>2,524</u>	<u>2,577</u>	<u>2,640</u>	<u>2,672</u>	<u>2,746</u>
<u>17</u>	<u>2,440</u>	<u>2,462</u>	<u>2,505</u>	<u>2,557</u>	<u>2,610</u>	<u>2,673</u>	<u>2,705</u>	<u>2,779</u>
<u>18</u>	<u>2,473</u>	<u>2,495</u>	<u>2,537</u>	<u>2,589</u>	<u>2,642</u>	<u>2,706</u>	<u>2,737</u>	<u>2,812</u>
<u>19</u>	<u>2,507</u>	<u>2,527</u>	<u>2,570</u>	<u>2,622</u>	<u>2,675</u>	<u>2,738</u>	<u>2,770</u>	<u>2,844</u>

<u>20</u>	<u>2,539</u>	<u>2,560</u>	<u>2,603</u>	<u>2,656</u>	<u>2,708</u>	<u>2,771</u>	<u>2,803</u>	<u>2,878</u>
<u>21</u>	<u>2,572</u>	<u>2,592</u>	<u>2,635</u>	<u>2,688</u>	<u>2,740</u>	<u>2,804</u>	<u>2,835</u>	<u>2,912</u>
<u>22</u>	<u>2,605</u>	<u>2,626</u>	<u>2,668</u>	<u>2,721</u>	<u>2,773</u>	<u>2,837</u>	<u>2,869</u>	<u>2,944</u>
<u>23</u>	<u>2,637</u>	<u>2,659</u>	<u>2,701</u>	<u>2,754</u>	<u>2,807</u>	<u>2,871</u>	<u>2,903</u>	<u>2,978</u>
<u>24</u>	<u>2,670</u>	<u>2,691</u>	<u>2,733</u>	<u>2,786</u>	<u>2,839</u>	<u>2,905</u>	<u>2,936</u>	<u>3,012</u>
<u>25</u>	<u>2,703</u>	<u>2,724</u>	<u>2,766</u>	<u>2,819</u>	<u>2,873</u>	<u>2,937</u>	<u>2,970</u>	<u>3,044</u>
<u>26</u>	<u>2,735</u>	<u>2,757</u>	<u>2,798</u>	<u>2,853</u>	<u>2,907</u>	<u>2,971</u>	<u>3,002</u>	<u>3,078</u>
<u>27</u>	<u>2,768</u>	<u>2,789</u>	<u>2,831</u>	<u>2,885</u>	<u>2,939</u>	<u>3,003</u>	<u>3,036</u>	<u>3,111</u>
<u>28</u>	<u>2,801</u>	<u>2,822</u>	<u>2,865</u>	<u>2,919</u>	<u>2,973</u>	<u>3,037</u>	<u>3,070</u>	<u>3,145</u>
<u>29</u>	<u>2,833</u>	<u>2,856</u>	<u>2,898</u>	<u>2,951</u>	<u>3,006</u>	<u>3,071</u>	<u>3,102</u>	<u>3,179</u>
<u>30</u>	<u>2,867</u>	<u>2,888</u>	<u>2,932</u>	<u>2,985</u>	<u>3,039</u>	<u>3,103</u>	<u>3,136</u>	<u>3,212</u>
<u>31</u>	<u>2,900</u>	<u>2,922</u>	<u>2,966</u>	<u>3,019</u>	<u>3,073</u>	<u>3,137</u>	<u>3,170</u>	<u>3,245</u>
<u>32</u>	<u>2,934</u>	<u>2,955</u>	<u>2,998</u>	<u>3,052</u>	<u>3,105</u>	<u>3,171</u>	<u>3,202</u>	<u>3,279</u>
<u>33</u>	<u>2,968</u>	<u>2,988</u>	<u>3,032</u>	<u>3,086</u>	<u>3,139</u>	<u>3,203</u>	<u>3,236</u>	<u>3,312</u>
<u>34</u>	<u>3,000</u>	<u>3,022</u>	<u>3,066</u>	<u>3,120</u>	<u>3,173</u>	<u>3,237</u>	<u>3,270</u>	<u>3,345</u>
<u>35</u>	<u>3,034</u>	<u>3,056</u>	<u>3,098</u>	<u>3,152</u>	<u>3,205</u>	<u>3,271</u>	<u>3,303</u>	<u>3,379</u>
<u>36</u>	<u>3,068</u>	<u>3,089</u>	<u>3,132</u>	<u>3,186</u>	<u>3,240</u>	<u>3,304</u>	<u>3,337</u>	<u>3,411</u>
<u>37</u>	<u>3,100</u>	<u>3,123</u>	<u>3,166</u>	<u>3,220</u>	<u>3,274</u>	<u>3,338</u>	<u>3,370</u>	<u>3,445</u>
<u>38</u>	<u>3,134</u>	<u>3,155</u>	<u>3,198</u>	<u>3,252</u>	<u>3,306</u>	<u>3,371</u>	<u>3,403</u>	<u>3,479</u>
<u>39</u>	<u>3,168</u>	<u>3,189</u>	<u>3,232</u>	<u>3,286</u>	<u>3,340</u>	<u>3,404</u>	<u>3,437</u>	<u>3,511</u>
<u>40</u>	<u>3,200</u>	<u>3,223</u>	<u>3,265</u>	<u>3,319</u>	<u>3,374</u>	<u>3,438</u>	<u>3,470</u>	<u>3,545</u>

17

18 (2) Each service employee shall receive the amount prescribed in the State Minimum Pay  
19 Scale Pay Grade in accordance with the provisions of this subsection according to their class title  
20 and pay grade as set forth in this subdivision:

21 CLASS TITLE PAY GRADE

22	Accountant I .....	D
23	Accountant II .....	E
24	Accountant III .....	F
25	Accounts Payable Supervisor .....	G
26	Aide I .....	A
27	Aide II .....	B
28	Aide III .....	C
29	Aide IV .....	D
30	Audiovisual Technician .....	C
31	Auditor .....	G
32	Autism Mentor .....	F
33	Braille Specialist .....	E
34	Bus Operator .....	D
35	Buyer .....	F
36	Cabinetmaker .....	G
37	Cafeteria Manager .....	D
38	Carpenter I .....	E
39	Carpenter II .....	F
40	Chief Mechanic .....	G
41	<u>B</u> Clerk I .....	B
42	Clerk II .....	C
43	Computer Operator .....	E
44	Cook I .....	A
45	Cook II .....	B
46	Cook III .....	C
47	Crew Leader .....	F

48	Custodian I .....	A
49	Custodian II .....	B
50	Custodian III .....	C
51	Custodian IV .....	D
52	Director or Coordinator of Services .....	H
53	Draftsman .....	D
54	Early Childhood Classroom Assistant Teacher I .....	E
55	Early Childhood Classroom Assistant Teacher II .....	E
56	Early Childhood Classroom Assistant Teacher III .....	F
57	Educational Sign Language Interpreter I .....	F
58	Educational Sign Language Interpreter II .....	G
59	Electrician I .....	F
60	Electrician II .....	G
61	Electronic Technician I .....	F
62	Electronic Technician II .....	G
63	Executive Secretary .....	G
64	Food Services Supervisor .....	G
65	Foreman .....	G
66	General Maintenance .....	C
67	Glazier .....	D
68	Graphic Artist .....	D
69	Groundsman .....	B
70	Handyman .....	B
71	Heating and Air Conditioning Mechanic I .....	E
72	Heating and Air Conditioning Mechanic II .....	G
73	Heavy Equipment Operator .....	E

74	Inventory Supervisor .....	D
75	Key Punch Operator .....	B
76	Licensed Practical Nurse .....	F
77	Locksmith .....	G
78	Lubrication Man .....	C
79	Machinist .....	F
80	Mail Clerk .....	D
81	Maintenance Clerk .....	C
82	Mason .....	G
83	Mechanic .....	F
84	Mechanic Assistant .....	E
85	Office Equipment Repairman I .....	F
86	Office Equipment Repairman II .....	G
87	Painter .....	E
88	Paraprofessional .....	F
89	Payroll Supervisor .....	G
90	Plumber I .....	E
91	Plumber II .....	G
92	Printing Operator .....	B
93	Printing Supervisor .....	D
94	Programmer .....	H
95	Roofing/Sheet Metal Mechanic .....	F
96	Sanitation Plant Operator .....	G
97	School Bus Supervisor .....	E
98	Secretary I .....	D
99	Secretary II .....	E

100	Secretary III .....	F
101	Sign Support Specialist .....	E
102	Supervisor of Maintenance .....	H
103	Supervisor of Transportation .....	H
104	Switchboard Operator-Receptionist .....	D
105	Truck Driver .....	D
106	Warehouse Clerk .....	C
107	Watchman .....	B
108	Welder .....	F
109	WVEIS Data Entry and Administrative Clerk .....	B
110	(b) An additional \$12 per month is added to the minimum monthly pay of each service	
111	person who holds a high school diploma or its equivalent.	
112	(c) An additional \$11 per month also is added to the minimum monthly pay of each service	
113	person for each of the following:	
114	(1) A service person who holds 12 college hours or comparable credit obtained in a trade	
115	or vocational school as approved by the state board;	
116	(2) A service person who holds 24 college hours or comparable credit obtained in a trade	
117	or vocational school as approved by the state board;	
118	(3) A service person who holds 36 college hours or comparable credit obtained in a trade	
119	or vocational school as approved by the state board;	
120	(4) A service person who holds 48 college hours or comparable credit obtained in a trade	
121	or vocational school as approved by the state board;	
122	(5) A service employee who holds 60 college hours or comparable credit obtained in a	
123	trade or vocational school as approved by the state board;	
124	(6) A service person who holds 72 college hours or comparable credit obtained in a trade	
125	or vocational school as approved by the state board;	

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) ~~To meet the objective of salary equity among the counties,~~ Each service person is paid ~~an equity~~ a supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of



152 this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state  
153 minimum salaries for service personnel.

154 (g) When any part of a school service person's daily shift of work is performed between  
155 the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an  
156 additional \$10 per month and one half of the pay is paid with local funds.

157 (h) Any service person required to work on any legal school holiday is paid at a rate one  
158 and one-half times the person's usual hourly rate.

159 (i) Any full-time service personnel required to work in excess of their normal working day  
160 during any week which contains a school holiday for which they are paid is paid for the additional  
161 hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate  
162 and paid entirely from county board funds.

163 (j) A service person may not have his or her daily work schedule changed during the school  
164 year without the employee's written consent and the person's required daily work hours may not  
165 be changed to prevent the payment of time and one-half wages or the employment of another  
166 employee.

167 (k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of  
168 this code is no less than one seventh of the person's daily total salary for each hour the person is  
169 involved in performing the assignment and paid entirely from local funds: *Provided*, That an  
170 alternative minimum hourly rate of pay for performing extra duty assignments within a particular  
171 category of employment may be used if the alternate hourly rate of pay is approved both by the  
172 county board and by the affirmative vote of a two-thirds majority of the regular full-time persons  
173 within that classification category of employment within that county: *Provided, however*, That the  
174 vote is by secret ballot if requested by a service person within that classification category within  
175 that county. The salary for any fraction of an hour the employee is involved in performing the  
176 assignment is prorated accordingly. When performing extra duty assignments, persons who are  
177 regularly employed on a one-half day salary basis shall receive the same hourly extra duty

assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

**§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.**

1           (a) *Personal Leave.*

2           (1) At the beginning of the employment term, any full-time employee of a county board is  
3 entitled annually to at least one and one-half days personal leave for each employment month or  
4 major fraction thereof in the employee's employment term. Unused leave shall be accumulative  
5 without limitation and is transferable within the state. A change in job assignment during the school  
6 year does not affect the employee's rights or benefits.

7           (2) A regular full-time employee who is absent from assigned duties due to accident,  
8 sickness, death in the immediate family, or life threatening illness of the employee's spouse,  
9 parents or child, or other cause authorized or approved by the board, shall be paid the full salary  
10 from his or her regular budgeted salary appropriation during the period which the employee is  
11 absent, but not to exceed the total amount of leave to which the employee is entitled.

12           (3) Each employee is permitted to use three days of leave annually without regard to the  
13 cause for the absence: Provided, That effective July 1, 2019, each employee is permitted to use  
14 four days of leave annually without regard to the cause for the absence. Personal leave without  
15 cause may not be used on consecutive work days unless authorized or approved by the  
16 employee's principal or immediate supervisor, as appropriate. The employee shall give notice of  
17 leave without cause to the principal or immediate supervisor at least 24 hours in advance, except  
18 that in the case of sudden and unexpected circumstances, notice shall be given as soon as  
19 reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the  
20 time notice is given, either 15 percent of the employees or three employees, whichever is greater,  
21 under the supervision of the principal or immediate supervisor, have previously given notice of  
22 their intention to use that day for leave. Personal leave may not be used in connection with a  
23 concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of  
24 the employment term, the employee shall be paid for time lost after the start of the employment  
25 term. If an employee uses personal leave which the employee has not yet accumulated on a  
26 monthly basis and subsequently leaves the employment, the employee is required to reimburse

the board for the salary or wages paid for the unaccumulated leave.

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) *Leave Banks.*

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days

53 accumulated personal leave who is absent from work due to accident or illness of the employee;  
54 and

55 (C) Shall prohibit the use of days to:

56 (i) Qualify for or add to service for any retirement system administered by the state; or

57 (ii) Extend insurance coverage pursuant to §5-16-13 of this code.

58 (D) Shall require that each personal leave day contributed:

59 (i) Is deducted from the number of personal leave days to which the donor employee is  
60 entitled by this section;

61 (ii) Is not deducted from the personal leave days without cause to which a donor employee  
62 is entitled if sufficient general personal leave days are otherwise available to the donor employee;

63 (iii) Is credited to the receiving employee as one full personal leave day;

64 (iv) May not be credited for more or less than a full day by calculating the value of the  
65 leave according to the hourly wage of each employee; and

66 (v) May be used only for an absence due to the purpose for which the leave was  
67 transferred. Any transferred days remaining when the catastrophic medical emergency ends  
68 revert back to the leave bank.

69 (3) The administration, subject to county board approval, may use its discretion as to the  
70 need for a substitute where limited absence may prevail, when an allowable absence does not:

71 (i) Directly affect the instruction of the students; or

72 (ii) Require a substitute employee because of the nature of the work and the duration of  
73 the cause for the absence.

74 (4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of  
75 substitutes for meeting the provisions of this section, the remainder shall be paid on or before the  
76 August 31 from the budget of the next fiscal year.

77 (5) A county board may supplement the leave provisions in any manner it considers  
78 advisable in accordance with applicable rules of the state Board and the provisions of this chapter

79 and chapter 18 of this code.

1       (c) Effective July 1, 2019, a classroom teacher who has not utilized more than four days  
2       of personal leave during the 200-day employment term shall receive a bonus of \$500 at the end  
3       of the school year. If the appropriations to the Department of Education for this purpose are  
4       insufficient to compensate all applicable classroom teachers, the Department of Education shall  
5       request a supplemental appropriation in an amount sufficient to compensate all eligible classroom  
6       teachers. This bonus may not be counted as part of the final average salary for the purpose of  
7       calculating retirement.

## **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

### **§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.**

1       (a) Schools shall be closed on Saturdays and on the following days which are designated  
2       as legal school holidays: Independence Day, Labor Day, Veterans Day, Thanksgiving Day,  
3       Christmas Day, New Year's Day, Martin Luther King's birthday, Memorial Day and West Virginia  
4       Day. Schools also shall be closed on any day on which a primary election, general election or  
5       special election is held throughout the state or school district and on any day appointed and set  
6       apart by the president or the Governor as a holiday of special observance by the people of the  
7       state.

8       (b) When any of the above designated holidays, except a special election, falls on  
9       Saturday, the schools shall be closed on the preceding Friday. When any designated holiday falls  
10      on Sunday, the schools shall be closed on the following Monday.

11      (c) Special classes may be conducted on Saturdays for pupils and by teachers and service  
12      personnel. Saturday classes shall be conducted on a voluntary basis and teachers and service  
13      personnel shall be remunerated in ratio to the regularly contracted pay.

14      (d) Any school or schools may be closed by proper authorities on account of the  
15      prevalence of contagious disease, conditions of weather or any other calamitous cause over

which the board has no control.

(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. A Except as otherwise provided by §18-5-45a, a school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.

(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 4. UNDERWOOD-SMITH ~~TEACHER~~ SCHOLARSHIP TEACHING SCHOLARS PROGRAM.**

#### **§18C-4-1. ~~Scholarship and loan assistance fund~~ Underwood-Smith Teaching Scholars Program Fund created; purposes; funding; effective date.**

(a) It is the purpose of this article and §18C-4A-1 *et seq.* of this code to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who

3 have demonstrated outstanding academic abilities to pursue teaching careers in critical shortage  
4 fields at the ~~preschool~~ elementary, middle or secondary levels in the public schools of this state.  
5 ~~In addition, of those individuals who have demonstrated outstanding academic abilities to pursue~~  
6 ~~teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter~~  
7 Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the  
8 state's present and projected ~~subject and geographic areas of critical need~~ critical teacher  
9 shortage fields.

10 (b) In consultation with the State Board of Education and the State Superintendent of  
11 Schools, the commission shall propose legislative rules in accordance with the provisions of  
12 §29A-3A-1 *et seq.* of this code. The rules shall provide for the administration of the Underwood-  
13 ~~Smith Teacher Scholarship and Loan Assistance programs~~ Teaching Scholars Program and the  
14 Teacher Education Loan Repayment Program by the Vice Chancellor for Administration in  
15 furtherance of the purposes of this article, and §18C-4A-1 *et seq.* of this code including, but not  
16 limited to, the following:

17 (1) Establishing scholarship selection criteria and procedures;

18 (2) Establishing criteria and procedures for identifying ~~subject areas public schools or~~  
19 ~~geographic areas in critical need of teachers~~ critical teacher shortage fields;

20 (3) Establishing and updating as necessary a list of critical teacher shortage fields in the  
21 public schools for which scholarships are available;

22 (4) Requiring scholarship recipients to teach in a public school in this state at the  
23 elementary, middle or secondary level in a critical teacher shortage field pursuant to the provisions  
24 of §18C-4-3 of this code;

25 (5) Awarding loan repayment assistance, including establishing conditions under which  
26 partial awards may be granted for less than a full year of teaching ~~in an area of critical need in a~~  
27 critical teacher shortage field;

28 (4) (6) Determining eligibility for loan repayment assistance renewal;



(5) (7) Establishing procedures ensuring that loan repayment assistance funds are paid directly to the proper lending entity; and

(6) (8) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

(7) (9) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field beginning with the freshman year and continuing through degree completion and the teaching obligation.

~~(d) There is created in the State Treasury a special revolving fund in the State Treasury to be known as~~ The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-Smith Teaching Scholars Program Fund. The fund shall ~~to~~ be administered by the Vice Chancellor for Administration solely for granting scholarships and loan repayment assistance to teachers and prospective teachers in accordance with this article and §18C-4A-1 *et seq.* of this code. Any moneys which may be appropriated by the Legislature, or received by the Vice Chancellor for Administration from other sources, for the purposes of this article and §18C-4A-1 *et seq.* of this code shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the Vice Chancellor for Administration by reason of default of a scholarship or loan repayment assistance agreement under this article or §18C-4A-1 *et seq.* of this code also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

~~(d)~~ (e) The Vice Chancellor for Administration may accept and expend any gift, grant,

55 contribution, bequest, endowment, or other money for the purposes of this article and §18C-4A-  
56 1 *et seq.* of this code and shall make a reasonable effort to encourage external support for the  
57 scholarship and loan repayment assistance programs.

58 ~~(e)~~ (f) For the purpose of encouraging support for the scholarship and loan repayment  
59 assistance programs from private sources, the Vice Chancellor for Administration may set aside  
60 no more than half of the funds appropriated by the Legislature for Underwood-Smith ~~Teacher~~  
61 ~~Scholarships~~ Teaching Scholars Program and loan repayment assistance awards to be used to  
62 match two state dollars to each private dollar from a nonstate source contributed on behalf of a  
63 specific institution of higher education in this state.

64 (g) In recognition of the high academic achievement necessary to receive an award under  
65 this article, each recipient shall be distinguished as an “Underwood-Smith Teaching Scholar” in a  
66 manner befitting the distinction as determined by the commission.

67 (h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 of this  
68 code:

69 (1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to  
70 satisfy loan repayment assistance agreements pursuant to §18C-4A-1 *et seq.* of this code and  
71 any renewals for which a recipient would be eligible pursuant to the prior enactment of §18C-4A-  
72 1 *et seq.* of this code for any student who is receiving such loan repayment assistance or fulfilling  
73 the requirements of an agreement on the effective date of this section;

74 (2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to  
75 fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be  
76 eligible pursuant to the prior enactment of this article, for those students receiving such  
77 scholarship on the effective date of this section; and

78 (3) The terms, conditions, requirements, and agreements applicable to an Underwood-  
79 Smith teacher scholarship or loan repayment recipient prior to the effective date of this section

shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

(i) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18C-4-2. Selection criteria and procedures for awarding scholarships.**

~~(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter of this code~~ Vice Chancellor for Administration shall appoint a selection panel comprised of individuals representing higher education, public education, and the community at large to select the recipients of Underwood-Smith teacher scholarships Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith Teacher Scholarship Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test with a cumulative grade point average of at least 3.25 on a 4.0 scale;

~~(2) Have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia;~~

~~(3) Are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen-a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or~~

~~(4) Are graduate students at the master's degree level; who have graduated or are~~

~~graduating in the top ten percent of their college graduating class.~~

(2) Have met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; and

(3) Agree to teach in a critical teacher shortage field at the elementary, middle or secondary level in a public school in the state pursuant to the provisions of §18C-4-3 of this code.

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD), or work permit, issued by the United States Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the Vice Chancellor for Administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. ~~However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.~~

~~(d)~~ (e) In developing the selection criteria and procedures to be used by the ~~Higher Education Student Financial Aid Advisory Board~~ selection panel, the Vice Chancellor for Administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other

methods the Vice Chancellor for Administration may determine to be appropriate to gather the information.

~~(e)~~ (f) The Vice Chancellor for Administration shall make application forms for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are under-represented in those fields.

**§18C-4-3. Scholarship agreement.**

(a) Each recipient of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award shall enter into an agreement with the Vice Chancellor for Administration under which the recipient shall meet the following conditions:

(1) Provide the commission with evidence of compliance with §18C-4-4(a) of this code;

(2) Beginning within a ~~ten-year period~~ one year after completing the teacher education program for which the scholarship was awarded, ~~(A) teach full-time in a critical teacher shortage field at the elementary, middle or secondary level,~~ under contract with a county board of education in a public education program in the state, for a period of not fewer than ~~two~~ five consecutive years for ~~each year~~ the four academic years for which a scholarship was received; or

~~(B) Teach full-time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or~~

~~(C) Within the ten-year period, while seeking and unable to secure a full-time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:~~

18 ~~(i) Teach full time in a private school, parochial or other school approved for the instruction~~  
19 ~~of students of compulsory school age pursuant to section one, article eight, chapter eighteen of~~  
20 ~~this code; or~~

21 ~~(ii) Teach in an institution of higher education in this state as defined in section two, article~~  
22 ~~one, chapter eighteen b of this code or in a post-secondary vocational education program in this~~  
23 ~~state for a period of not fewer than two years for each year for which a scholarship was received;~~  
24 ~~or~~

25 ~~(iii) Perform alternative service or employment in this state pursuant to rules promulgated~~  
26 ~~by the commission, in federal, state, county or local supported programs with an educational~~  
27 ~~component, including mental or physical health care, or with bona fide tax exempt charitable~~  
28 ~~organizations dedicated to the above, for a period of not fewer than two years for each year for~~  
29 ~~which a scholarship was received. Any teaching time accrued during the required five-year period~~  
30 ~~as a substitute teacher for a county board of education under paragraph (A) or (B) of this~~  
31 ~~subdivision in a critical teacher shortage field at the elementary, middle or secondary level shall~~  
32 ~~be credited pro rata in accordance with rules promulgated by the commission; or~~

33 (3) Repay all or part of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars  
34 award received under this article plus interest and, if applicable, reasonable collection fees in  
35 accordance with subsection (c), ~~section four of this article, except as provided in subsection (d)~~  
36 ~~of section four of this article~~ §18C-4-4 of this code.

37 (b) Scholarship agreements shall disclose fully the terms and conditions under which  
38 assistance under this article is provided and under which repayment may be required. The  
39 agreements shall include the following:

40 (1) A description of the conditions and procedures to be established under §18C-4-4 of  
41 this code; and

42 (2) A description of the appeals procedure required to be established under §18C-4-4 of  
43 this code.

(c) ~~Individuals who were~~ The scholarship terms, conditions, requirements, and agreements applicable to ~~awarded~~ an Underwood-Smith teacher scholarship recipient prior to the effective date of this section ~~may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997~~ shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

**§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

(a) The recipient of an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a ~~course~~ program of study leading to teacher certification in a critical teacher shortage field at the ~~preschool~~ elementary, middle or secondary level; ~~in this state~~

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; and

(4) Is maintaining a cumulative grade point average of at least 3.0 on a 4.0 scale; and

(5) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under §18C-4-3 of this code shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under §18C-4-3(a) of this code and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under §18C-4-3 of this code

during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

~~(3) Seeking and unable to find full-time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;~~

~~(4)~~ Satisfying the provisions of additional any repayment exemptions that may be prescribed by the commission by rule; or

~~(5)~~ (4) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the Vice Chancellor for Administration may extend the time period for beginning or fulfilling the teaching obligation ~~to fifteen years~~ if extenuating circumstances exist.

**§18C-4-5. Amount and duration of scholarship; relation to other assistance.**

~~(a) Subject to subsection (b) of this section, each recipient of An Underwood-Smith teacher scholarship is eligible to receive assistance of up to \$5,000 for each academic year of higher education. Teaching Scholars award shall be used in preparation for becoming a preschool an elementary, middle or secondary teacher in a critical teacher shortage field in the public schools of this state. No individual may receive scholarship assistance for more than Each award shall be in the amount of \$10,000 annually, and is available for a maximum of four academic years for the completion of a bachelor's degree. and two additional academic years for completion of a master's degree~~

~~(b) No individual shall~~ An individual may not receive a scholarship award under this article which exceeds the cost of attendance at the institution the individual is attending. The cost of attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances



for books, educational supplies, room and board and other expenses necessitated by individual circumstances, in accordance with the program guidelines. For the purposes of establishing an award amount, the ~~senior administrator~~ Vice Chancellor for Administration shall take into account the amount of financial aid assistance the recipient has or will receive from all other sources. If the amount of the Underwood-Smith ~~teacher scholarship assistance~~ Teaching Scholars award and the amount of ~~assistance~~ scholarship and grant awards which the recipient has received from all other sources exceed the cost of attendance, the institution's financial aid officer, in consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner to the best advantage of the scholar.

(c) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for academic years beginning on or after July 1, 2019, and the provisions of this article existing immediately prior to the 2019 first extraordinary session of the Legislature remain in effect for academic years beginning prior to July 1, 2019.

**ARTICLE 4A. ~~UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE~~ TEACHER EDUCATION LOAN REPAYMENT PROGRAM.**

**§18C-4A-1. Selection criteria and procedures for loan assistance; effective date.**

(a) The ~~Governor shall designate the~~ Higher Education Student Financial Aid Advisory Board created by §18C-1-5 of this code ~~to~~ shall select recipients to receive ~~Underwood-Smith Teacher Loan Assistance~~ Teacher Education Loan Repayment Program awards. The advisory board shall make decisions regarding loan repayment awards pursuant to §18C-4-1 of this code and rules of the commission.

(b) To be eligible for a loan repayment award, ~~a teacher shall agree to teach shall agree to teach, or an applicant~~ shall currently be teaching a subject area of critical need or employed in a public school in this state as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of the state identified

as an area of critical need for such field. ~~at the preschool elementary, middle or secondary levels.~~  
~~The advisory board shall make decisions regarding loan assistance pursuant to section one,~~  
~~article four of this chapter~~

(c) In accordance with the rule promulgated pursuant to §18C-4-1 of this code, the Vice Chancellor for Administration shall develop additional eligibility criteria and procedures for the administration of the loan repayment program.

(d) The Vice Chancellor for Administration shall make available program application forms to public and private schools in the state via the website of the commission and the State Department of Education and in other locations convenient to potential applicants.

(e) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18C-4A-2. Teacher Education Loan assistance Repayment agreement.**

(a) Before receiving ~~an~~ a loan repayment award, each eligible ~~teacher~~ applicant shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with ~~subsection (b), section four,~~  
~~article four of this chapter~~ §18C-4-4 of this code;

(2) ~~Teach in a subject area of critical need or~~ Agree to be employed full time under contract with a county board of education for a period of two school years as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need full time under contract with a county board for a period of two school years for such field for each year for which a loan repayment assistance award is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule;

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) ~~Repay~~ Agree to repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan repayment agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by §18C-4-5 of this code.

**§18C-4A-3. Amount and duration of loan ~~assistance~~ repayment awards; limits.**

(a) Each award recipient is eligible to receive loan assistance ~~of up to~~ in an amount determined annually by the commission based upon available funds, but not less than \$3,000 annually in an amount determined annually by the commission based upon available funds, and subject to limits set forth in subsection (b) of this section, if the recipient:

(1) ~~If the recipient has taught~~ Has been employed for a full school year under contract with a county board of education in a subject area of critical need or as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need; and

(2) ~~If the recipient otherwise~~ Otherwise has complied with the terms of the agreement and with applicable provisions of this article and §18C-4-1 *et seq.* of this code, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of a loan repayment assistance award only during periods when the recipient complies with other criteria and conditions established by rule, and is under contract with a county board to teach in a subject area of critical need or of education as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or

~~secondary level, in a school or geographic area of critical need in such field. and complies with other criteria and conditions established by rule, except that a teacher who is teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.~~

~~(c) A recipient may not receive loan assistance pursuant to this article which accumulates in excess of \$15,000.~~

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, public charter schools electing to obtain coverage, and for employees and officers of the state Department of Corrections; written notice of coverage to insureds.**

(a) In accordance with the provisions of this article, the State Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members and for all employees and officers of the State ~~Department of Corrections~~ Division of Corrections and Rehabilitation: *Provided, That* the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members, and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or

13 judgments by reason of alleged negligence or other acts resulting in bodily injury or property  
14 damage to any person within or without any school building or correctional institution if, at the  
15 time of the alleged injury, the teacher, supervisor, administrator, service personnel employee,  
16 county superintendent, school board member, or employee or officer of the ~~Department of~~  
17 ~~Corrections~~ Division of Corrections and Rehabilitation was acting in the discharge of his or her  
18 duties, within the scope of his or her office, position or employment, under the direction of the  
19 county board of education, or Commissioner of Corrections, or in an official capacity as a county  
20 superintendent or as a school board member or as Commissioner of Corrections.

21 (c) Insurance coverage provided by the Board of Risk and Insurance Management  
22 pursuant to subsection (a) of this section shall be in an amount to be determined by the state  
23 Board of Risk and Insurance Management, but in no event less than ~~\$1 million~~ \$1,250,000 for  
24 each occurrence. In addition, each county board of education shall purchase, through  
25 the Board of Risk and Insurance Management, excess coverage of at least \$5 million for each  
26 occurrence. The cost of this excess coverage will be paid by the respective county boards of  
27 education. Any insurance purchased under this section shall be obtained from a company  
28 licensed to do business in this state.

29 (d) The insurance policy provided by the Board of Risk and Insurance Management  
30 pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury  
31 coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well  
32 as a provision for the payment of the cost of attorney's fees in connection with any claim, demand,  
33 action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury  
34 under the conditions specified in this section.

35 (e) The county superintendent and other school personnel shall be defended by the county  
36 board or an insurer in the case of suit, unless the act or omission shall not have been within the  
37 course or scope of employment or official responsibility or was motivated by malicious or criminal  
38 intent.

39       (f) At least annually, beginning with the 2019-2020 school year, county boards shall  
40 provide written notice of insurance coverage to each of its insureds, including teachers,  
41 supervisors, administrators, service personnel employees, county superintendent, and school  
42 board members. The notice shall identify the coverages, monetary limits of insurance, and duty  
43 to defend for each occurrence as provided to insureds by the Board of Risk and Insurance  
44 Management under this section. The written notice may be sent via email, or via first-class mail  
45 to the insured's last mailing address known to the county board. The written notice shall also  
46 include contact information for the Board of Risk and Insurance Management.

47       (g) The provisions of this section apply to public charter schools that have been authorized  
48 pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into  
49 pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board  
50 of Risk and Insurance Management pursuant to this section. If a public charter school elects to  
51 obtain coverage pursuant to this section:

52       (1) Any provision in this section applicable to a county board also applies to a charter  
53 school governing board;

54       (2) Any provision in this section applicable to a school board member also applies to a  
55 member of a charter school governing board; and

56       (3) Any provision of this section applicable to teachers, supervisory and administrative  
57 staff members, and service personnel employed by a county board also applies to teachers,  
58 supervisory or administrative staff members, and service personnel employed by a public charter  
59 school.